

PLANNING COMMISSION MINUTES - 2000

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

December 13, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Lalwani, Sandhu, Chua, NitaFan

Absent:

Staff: Burkey, Fujimoto, Whales, Rush, Guido, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, commended staff for the improvements made on the agenda and said that the minutes are always current on the City's web page.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of November 8, 2000.

Motion to approve the minutes of November 8, 2000 as submitted.

M/S: NitaFan/Chua

AYES: 7

ANNOUNCEMENTS

Chair Hay congratulated Vice Chair Nitafan and Commissioner Williams on their reappointment to the Planning Commission and commented that the Planning Commission would be welcoming Dr. Alex Galang as a newly appointed Commissioner at the first meeting in January 2001.

Principal Planner Burkey announced that the Century 20 theaters at the Great Mall had their ribbon cutting ceremony last week on December 7, 2000 and officially opened to the public on December 8, 2000.

Mr. Burkey announced that monthly transportation reports prepared by Engineering staff were handed out to the Commissioners and also a copy of an e-mail from Arch Walters of VTA regarding responses to the Planning Commissions concerns about the light rail project.

Mr. Burkey announced that there is a BlockBuster window covering that is not up to code in Foothill Square and the code enforcement staff is looking in to the issue.

Mr. Burkey commented that staff would be giving an update on the Great Mall freeway signs at the next Planning Commission Meeting.

Lastly, Mr. Burkey announced that beginning on January 24, 2001, the Planning Commission meeting would be held at the Milpitas Unified School District. Chair Hay expressed his appreciation to Dr. Perroti, Superintendent of the Milpitas Unified School District for allowing the Planning Commission to hold their meetings at School District.

Vice Chair Nitafan announced that on behalf of the Knights of Columbus, he would like to thank all the sponsors who helped with their Thanksgiving event.

Mr. Nitafan also announced that the honoring of the Citizen of the Year will be held March 17, 2001 and encouraged everyone to apply.

Commissioner Chua congratulated the Century 20 theaters on their opening and commended them for raising funds for the Humane Society.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as amended.

M/S: Nitafan/Williams

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were no changes.

Chair Hay opened the public hearing on consent item nos. 3, 4, 5, 6, 7, 8 and 9.

Motion to close the public hearing on consent item nos. 4, 5, 7, 8 and 9.

M/S: Nitafan/Williams

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

3. HILLSIDE SITE & ARCHITECTURAL REVIEW:

A request to construct a 7,000 square foot Hillside home at the northeast corner of Quince Lane and Evans Road. Applicant: John Ha. Project Planner: Jonelyn Whales, 586-3283. *(Open the public hearing and continue to January 24, 2001).*

4. USE PERMITS 1265 & 1265A REISSUANCE:

A request to allow a one-year continuance for the operation of a farmer's market within the Town Center Shopping Center parking lot. Applicant: Pacific Coast Farmer's Market Association. Project Planner: Therese M. Schmidt, 586-3286. *(Approved subject to findings with 11 special conditions).*

5. USE PERMIT NO. 1578 AND "S" ZONE AMENDMENT:

A request to operate a 281-seat, 8,000 square foot restaurant with on-site alcohol sales, and a parking requirement reduction of 62 stalls with minor exterior architectural modifications at 187 Ranch Drive in the McCarthy Ranch Marketplace. Applicant: Design Development. Project Planner: Frank Guido, 586-3284. *(Application withdrawn. Close hearing; note receipt & file).*

6. USE PERMIT NO. 1210 -AMENDMENT:

A request to allow the sale of food and beer for on-site consumption at a billiard parlor at 235 South Milpitas Boulevard. No additional seating is requested. Applicant: Edgie's Billiards, Inc. Project Planner: Frank Guido, 586-3284. *(Open the public hearing and Continue to January 10, 2001).*

7. USE PERMIT NO. 1573:

A request to install fifteen 1 to 2-foot diameter microwave antennae on the roof of the Crowne Plaza Hotel located at 777 Bellew Drive. Applicant: ReFlex Communications, Inc. Project Planner: Frank Guido, 586-3284. *(Approved subject to findings with 3 special conditions).*

8. TENTATIVE PARCEL MAP:

A request to approve a 24.41 acre subdivision into 3 parcels of 5, 10, and 9.41 acres, respectively, west of McCarthy Boulevard, approximately 2,500 feet south of Dixon Landing Road. Applicant: Joe McCarthy. Project Planner: Steve Burkey, 586-3275. *(Approved subject to findings with 12 special conditions).*

9. "S" ZONE APPROVAL:

A request to approve a building sign program for South Bay Tech Center business park at 1701-1765 South Main Street. Applicant: South Bay Tech Center. Project Planner: Frank Guido, 586-3284. *(Approved subject to findings with 4 special conditions).*

M/S: Nitafan/Williams

AYES: 7

PUBLIC HEARINGS

1. Use Permit 1575

Assistant Planner Fujimoto presented a request to operate a take-out restaurant located at 10B South Abbott Avenue.

Chair Hay asked what other establishments are in violation with the County Health Department. Mr. Fujimoto replied that the establishments that are in violation with the County Health Department are in the shopping center that is adjacent to the Milpitas Shopping Center. Mr. Hay asked what the problems are and to what extent is it impacting the neighborhood. Mr. Fujimoto said that there are odor and garbage issues and that impact the neighbors.

Commissioner Chua asked if there is currently an odor problem. Mr. Fujimoto said that there has not been any complaints regarding odor since 1997. Ms. Chua asked if the applicant is amendable to the numerous special conditions. Mr. Fujimoto said that the applicant is amendable to all of the special conditions.

Commissioner Sandhu asked what a tallow container is as referred to in the staff report. Mr. Fujimoto explained that a tallow bin collects grease and fat.

Commissioner Lalwani asked if this restaurant is existing or is it new. Mr. Fujimoto said that it is new.

Vice Chair Nitafan asked if the parking would be accessible. Ms. Rush said that there is a special condition that requires assessable parking. Chair Hay requested that the conditional use permit come back before the Commission in six-months. Mr. Hay asked if the Planning Commission would have the authority to apply additional conditions when it is brought back in six-months if there are problems. City Attorney Faubion replied that additional conditions could be added in the motion to approve the use permit. It was agreed that staff would amend condition no. 12 to include that wording.

Tommy Woo, applicant, 38858 Salmon Terrace, Fremont, CA, said that he designed this restaurant and said that the garbage would be double bagged so there wouldn't be an odor and the dumpsters are 25-feet from the neighbors fence.

Leslie Patterson, said that she lives behind the restaurant and the garbage dumpsters are 10-feet from her back fence and there has been odor problems when Ho Ho Market was there are she is concerned that putting in another restaurant will cause the same problem.

Commissioner Williams asked if there is a way to increase the frequency of the garbage pick-up. Ms. Patterson said that the garbage is picked up everyday at 7:00 A.M.

Commissioner Lalwani asked if the dumpsters could be moved to the other side of the property. Ms. Rush said that moving the dumpsters to the front would violate the City ordinance. Ms. Lalwani asked if they could increase the number of bins. Ms. Rush said that there are currently too many dumpsters. Chair Hay requested that this matter be brought back to the next meeting.

Marie Hom, 19 Crystal Court, said that she is glad that Ho Ho market is gone because it was unsanitary and that the owner of the proposed restaurant is very clean and sanitary.

Dave Richerson, 1920 Yosemite Drive, said that he is distressed with the garbage issue and suggested that the responsibility might be put on the property owner.

Motion to close the public hearing.

M/S: Nitaфан/Chua

AYES: 7

Motion to approve Use Permit 1575 subject to findings with 12 special conditions.

2. Site and Architectural Review

Project Planner Whales presented a request to construct a new two-story, 16, 227 square foot, office building located at 579 South Main Street.

Commissioner Williams if the applicant was given a copy of the Streetscape Plan. Ms. Whales said that they would be giving the applicant a copy.

Commissioner Chua asked what the daily trips would be. Ms. Rush said that they didn't have that information. Ms. Chua asked staff to come back with that information.

Commissioner Sandhu asked what the parking standards are for an office building. Ms. Rush said that the standard number of parking stalls for an office building is 1 stall for every 200-sq. ft.

Don Ong, applicant, P.O. Box 2494 Santa Clara CA, said that he is very grateful to the planning staff for all of their help. Vice Chair Nitaфан questioned the slope in the roofline design. Mr. Ong said that the slope is overemphasized on the illustration.

Commissioner Lalwani said she likes the building design and asked what type of tenants they are looking for. Mr. Ong said that the building is not going to be used for a medical building and that the current applicants have businesses in acupuncture, real estate and financial commercial property.

Chair Hay asked if the applicant is moving the stairs to the inside or extending the wall. Mr. Ong said that they are extending the wall.

It was agreed that special condition no. 4 would be amended to read that the lighting and landscaping would comeback before the Planning Commission for review.

Dave Richerson, 1920 Yosemite Drive, said that he is bothered that the parking is limiting the building to just office space and asked how many more parking spaces would be needed to allow a higher level of usage.

Motion to close the public hearing.

M/S: Lalwani/Chua

AYES: 7

Ms. Rush said that the space is very limited and there would be no room for additional stalls on the site.

Commissioner Williams requested that the applicants provide the Commission with a sketch of the south wall and the stairwell when they come back before the Commission.

Commissioner Lalwani commented that acupuncture could be considered a medical office. Mr. Burkey said that acupuncture is used for medical problems and staff would consider it a medical business.

Motion to approve the "S" Zone subject to findings with 16 special conditions and the amendment that parking, lighting and landscaping will comeback before the Planning Commission.

M/S: Nitafan/Williams

AYES: 7

10. Conceptual Streetscape Improvement Plans

Public Works Supervisor Randisi presented a courtesy review of conceptual landscape median improvements.

Commissioner Williams asked what kind of strategy is being developed to protect the trees. Gary Hyden, Consultant, said that they could start a pruning program to bring the trees up to a certain level and it would be handled on a case by case basis.

Commissioner Chua asked what the timeframe of the project is. Ms. Randisi said that they would be bidding on the project in spring and should start construction by April 2001. This is a conceptual plan.

Dave Richerson, 1920 Yosemite Drive, said that he is glad to see how far they are progressing.

Motion to note receipt and file.

M/S: Nitafan/Williams

AYES: 7

11. Set Date for Mobil Workshop

Mobil workshop on various housing densities to be held on Saturday, either January 6, 2001 or January 20, 2001, from 9:00 a.m. to 1:00 p.m.

It was decided that the Mobil workshop would be held on Saturday January 20, 2001.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:50 PM to the next regular meeting of January 10, 2001.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY
Recording Secretary

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**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES**

November 8, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Lalwani, Montano, Sandhu, Chua, Nitafan

Absent:

Staff: Burkey, Tilley, Rush, Schmidt, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of October 25, 2000.

Motion to approve the minutes of October 25, 2000 as submitted.

M/S: Sandhu/Chua

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey introduced and welcomed new Assistant Planner Troy Fujimoto. Mr. Burkey also announced that Assistant Planner David Tilley would be leaving the City of Milpitas, as he would be starting employment with the City of West Sacramento.

Mr. Burkey announced that the Housing Tour that was scheduled for this Saturday would be canceled. Mr. Burkey went on to say that the City Council approved the Vista Ridge home project at its last meeting.

Commissioner Chua thanked everyone for helping with the Sunnyhills breakfast and stated that instead of being reimbursed for the expense the money was donated to the Sunnyhills church.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Mr. Burkey added an item on the agenda under New Business to discuss next year's Planning Commission meeting schedule.

Motion to approve the agenda as amended.

M/S: Williams/Chua

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

1. USE PERMIT NO. 1569 & "S" ZONE APPROVAL-AMENDMENT:

A request to install a rooftop satellite dish, equipment shelter, and façade mounted telecommunication antenna on the Crowne Plaza Hotel located at 777 Bellevue Drive.

Applicant: XM Satellite Radio, Inc. Project Planner: David Tilley. (**Approved subject to findings with 2 special conditions**).

Chair Hay opened the public Hearing on consent item no. 1.

Motion to close the public hearing on consent item no. 1.

M/S: Williams/Chua

AYES: 7

Motion to approve consent calendar as submitted.

M/S: Williams/Chua

AYES: 7

PUBLIC HEARINGS

Status Report on Floodplain Management Plan

City Engineer McNeely presented the status on the Floodplain Management Plan. It was decided that the Santa Clara Valley Water District would come back with a follow-up presentation of the Floodplain Management Plan after the first of the year. Mr. McNeely stated that 420 residents have been notified that they are no longer in a flood zone, and 10 others would be added to a flood zone due to increased flood plain mapping accuracy

2. Use Permit No. 1571A and B

Project Planner Schmidt presented a proposal for a temporary office and caretakers residence.

Vice Chair Nitafan asked why there would be a Recreational Vehicle on-site. Ms.

Schmidt said that the RV would be used to house security on-site. Mr. Nitafan asked how

far back the RV would be from the building. Mr. Burkey replied that staff recommends that it be at least as far back as the existing warehouse. Mr. Nitafan said that there should be a six-month review of the RV.

Commissioner Chua asked how this project fits into the Midtown Specific Plan. Ms. Schmidt replied that the subject application is a temporary use that may be approved at the discretion of the Planning Commission with a Use Permit application. As long as it is conditioned not to allow any religious uses. Mr. Burkey replied that both existing and conceptually proposed zoning provide for religious institutions with a Use Permit.

Commissioner Williams asked if there would be any evening business activities on the site. Ms. Schmidt said that to her knowledge there wouldn't be any evening business activities.

Commissioner Sandhu asked if security would be living in the RV trailer. Ms. Schmidt said that there would be someone there 24 hours per day, 7 days per week until the project is finished.

Mohammad Farooq Rydhan, Applicant, 2790 Edsel Drive San Jose, CA, stated that he just purchased this property last July and now they would like to take the next step and move in as soon as possible. Mr. Rydhan said that currently there is a warehouse on the property that is not fully developed and they would like to develop it as a religious institution that meets the City's requirements and they did not realize that moving the RV trailer to the front would be illegal.

Commissioner Lalwani asked Mr. Rydhan to tell the Commission about his organization. Mr. Rydhan said they are a Moslem organization.

Commissioner Williams asked if they would be conducting fund raising on the site. Mr. Rydhan said that they would not be conducting fund raising but they would be looking for key people that would be financially able to fund the project. Mr. Williams asked if they would be willing to invest in landscaping if it was required to keep the RV trailer in its current position. Mr. Rydhan replied that it would depend on the cost involved because they are going to develop something permanent in the future, however, they don't have a problem moving the RV trailer further back.

Vice Chair Nitafan asked how they would make the RV trailer more presentable aside from landscaping. Mr. Rydhan said that there is not much that can be done to improve the appearance of a trailer but they are open for suggestions. Mr. Nitafan asked what the target date is for the permanent structure. Mr. Rydhan said the target date is early next year.

Commissioner Lalwani asked what is the timeframe for building the mosque. Mr. Rydhan said that the renovation of the first building should be completed within six-months. Ms. Lalwani asked about the time frame for the second phase. Mr. Rydhan said that would take a couple of years.

Chair Hay asked if they were going to tear the warehouse down. Mr. Rydhan said that they would renovate the warehouse.

Commissioner Sandhu asked if the second phase would be started right after they complete the renovation of the warehouse. Mr. Rydhan said yes.

Chair Hay opened the public hearing.

Chris Franco, 3376 Calaveras Road said that he has a temporary structure in San Jose and they put eight 24-gallon trees around the structure with skirting around the temporary office to make it more presentable.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 7

Vice Chair Nitafan said that he thinks the RV trailer should remain in front if they are going to make it more presentable with landscaping and that he would like it to be conditioned with a six-month review.

Commissioner Chua said that she wants to make sure that they don't use the RV trailer for anything else other than what is decided upon by the Planning Commission. Mr. Burkey commented that they could add wording to special condition no. 1 to indicate that the office modular use is to conduct mosque business only.

Chair Hay said that he didn't think it would be appropriate to add that wording to special condition no. 1.

Commissioner Chua recommended that the last sentence of special condition no. 1 to be deleted, which reads Use Permit No. 1571B shall be valid from May 9, 2000, until November 8, 2001. Ms. Chua recommended that there be a six-month review.

It was decided that the date should be changed in special condition no. 2 to read that "if additional time is needed for the temporary structures, the applicant shall submit a written request with public hearing notification materials by February 14, 2001, to the Planning staff for review by the Planning Commission." The date was changed from August 15, 2001 to February 14, 2001.

Commissioner Williams said that this application should be handled with the same fairness as other religious institutions have been handled in the past. Evidence has shown that they have had problems in the past raising funds to complete projects. Mr. Burkey commented that the issues that are of concern have been addressed.

Motion to approve Use Permit No. 1571A & B subject to findings with 11 special conditions.

M/S: Deepka/Sandhu

Motion to remove special condition no. 4 a.

M/S: Nitafan/Williams

AYES: 5 (Nitafan, Lalwani, Sandhu, Chua, Williams)

NOES: 2 (Hay, Montano)

Motion Amendment to approve Use Permit No. 1571A and B subject to findings with the staff recommended 11 special conditions and to delete the last sentence in special condition no. 1 and to change the date in special condition no. 2 to February 14, 2001 and to add to special condition no. 4 that skirting would be added to the RV trailer and that a dumpster would be put in behind the office and to add a special condition number 12 to state that there would be written documentation relating to BFI contract.

AYES: 7

NEW BUSINESS

3. General Plan Compatibility Finding

Project Planner Schmidt presented a request to find a horse boarding facility to be generally compatible with the Hillside Very Low-Residential General Plan district.

Motion to find the Horse Boarding Facility to be generally compatible with the Hillside Residential very low density General Plan designation.

M/S: Nitafan/Chua

AYES: 7

4. 2001 PC Meeting Schedule

Principal Planner Burkey stated that there would be one meeting next year that would conflict with the holidays, December 26, and that September 12, 2001 meeting would conflict with the California League of California Cities conference. It was agreed that those meetings would be canceled.

Chair Hay announced that this would be Commissioner Montano's last Planning Commission meeting as she has been elected to serve on the School Board. Mr. Hay thanked Ms. Montano for her service on the Planning Commission.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:45 PM to the next regular meeting of December 13, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

[top](#)

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

October 25, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Faubion, Lindeman Whales, Guido, Barone, McNeely, DeLeon

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, read a letter that he had sent to County Supervisor Pete McHugh.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of October 11, 2000.

Motion to approve the minutes of October 11, 2000 as submitted.

M/S: Nitafan/Lalwani

AYES: 7

ANNOUNCEMENTS

Commissioner Chua announced that Milpitas City Engineer McNeely and staff would be giving a presentation on the Floodplain Management Plan at the next Planning Commission meeting.

Commissioner Sandhu commented that according to the City Engineer street-surfacing work should have been started by now and it has not. Principal Planner Burkey said that staff would report back to the Planning Commission on that issue.

Sr. Transportation Planner Oliva announced that the City Council has approved ECO pass for City employees, effective on November 1, 2000.

Chair Hay announced that he attended the Whistle Stop Housing Tour which was sponsored by the Housing Action Coalition and the Silicon Valley Manufacturing Group and entertained a motion to have the topic agendized at a future meeting.

M/S: Nitafan/Williams

AYES: 7

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Commissioner Chua added an item no. 3 to the agenda under New Business regarding a Sunnyhills breakfast update.

Motion to approve the agenda as amended.

M/S: Nitafan/Chua

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 2. "S" ZONE APPROVAL AMENDMENT:** Proposal for a sign program at South Park Victoria Shopping Center (southeast corner of East Calaveras Boulevard and South Park Victoria Drive). Applicant: Bertram Berns c/o Allen Signs. Project Planner: Frank Guido. **(Approved subject to findings with 4 special conditions).**

M/S: Nitafan/Montano

AYES: 7

PUBLIC HEARINGS

1. Site & Architectural Review

Principal Planner Burkey and Project Planner Whales presented a proposal to construct a 990,990 square foot research and development campus consisting of (2) two-story, (3) three-story, and (1) four-story office buildings located on 65 acres on the west side of North McCarthy Boulevard, across from McCarthy Ranch Marketplace.

Vice Chair Nitafan asked for clarification of the first phase. Mr. Burkey explained that staff has planned the timing of the conditions of approval to best coordinate with the developments construction schedule.

Commissioner Sandhu asked for clarification of the "school impact fee" as mentioned in condition no. 13. Mr. Burkey replied that state law requires the school impact fee and the city has no authority to increase or reduce it.

Commissioner Montano asked for clarification on pedestrian circulation. Mr. Burkey replied that there would be several pedestrian pathways between the buildings and the central landscape areas. Ms. Montano questioned why the tree on the McCarthy site would be destroyed. Mr. Burkey explained that the arborist reported that the condition of the tree is unsafe.

Commissioner Chua asked for clarification of what would be happening with Dixon Landing and I-880 at the time the project reaches completion in 2002. Sr. Transportation Planner Oliva stated that the 237/880 interchange reconstruction stages A and B should be completed by early to mid 2002 whereas the Dixon Landing and 880 interchange

would be completed by 2004. Mr. Oliva also noted that the Tasman East light rail construction and the construction to the 880/Milpitas station should be completed in Spring of 2001.

Chair Hay commented that several projects would be completed at that time causing traffic impacts. Mr. Oliva said that the traffic impact analysis looks at background conditions taking the existing condition and adding the planned improvements and an approved trip inventory.

Commissioner Chua asked how the traffic counts are gauged. Mr. Oliva responded that the consultant prepares a report that is reviewed by City staff to verify the accuracy.

Commissioner Williams asked if the plan to extend Fremont Boulevard to Dixon Landing is still an active project. Mr. Oliva said that the project is still active, however there are no immediate plans to move forward with that project at this time due to lack of funding.

Commissioner Lalwani asked if an analysis is done to determine the impacts of several projects being completed in the same time period. Mr. Oliva said that is reflected by the project analysis, which looks at all the improvement projects that will build out in the next couple years.

Commissioner Sandhu questioned why there were no analysis done on Friday, which is a day that has the greatest traffic impact. Mr. Oliva explained that it is industry standard to conduct traffic counts during a time that is considered normal traffic conditions instead of a day like a Friday when traffic is unpredictable.

Commissioner Chua questioned how the cost to the developer could be calculated two years in advance. Mr. Oliva replied that the costs are indexed and are paid based on an industry wide standard.

Chair Hay asked what were the social and economic concerns that justified the statement of overriding considerations for the McCarthy Ranch project. Mr. Burkey read from the City Council's resolution, which explained Mr. Hay's question. Mr. Hay asked if they could add a condition of approval to provide daycare access. Planning and Neighborhood Preservation Director Barone replied that it would be in the Planning Commission's purview to include a condition of approval that they apply for and work with the City toward the review process of a daycare center.

Mr. Hay asked what mitigation plans are a part of this application to protect employees from the fumes caused by the sewer treatment plant. Ms. Barone said that the City of San Jose has expressed concerns about sensitive receptors in relation to the plant, which includes homes and could also include day care centers. The ability to put office workers in R & D development was part of what was reviewed in the supplemental EIR and a determination was made that there is no significant risk to employees.

Chair Hay asked City Attorney Faubion if they have complied with all of the requirements under CEQA. Ms. Faubion said that staff has complied with the CEQA requirements. Mr. Hay asked if the traffic assessment prepared by Hexagon Traffic Consultants was shared with other agencies for comment. Mr. Oliva said that copies of

the Hexagon traffic assessment were sent to the VTA Congestion Management Program, the City of Fremont and the City of San Jose but they have not received any verbal or written comments from any of those jurisdictions.

Luigi Sciabarrai, Applicant, 1098 Alta Avenue, Mountain View, CA., introduced the presenters of the Veritas project.

Dan Tuttle, SWA Group, 2200 Bridgeway Boulevard, Sausalito, CA., presented the proposed Veritas project.

Commissioner Lalwani commented that it is a beautiful project and she is impressed with the number of trees.

Commissioner Montano said that she is very impressed with the architecture and asked if a water fountain is part of the plan. Mr. Tuttle said that the idea of still water would be appropriate for that courtyard.

Commissioner Chua asked how this project is different from the Mountain View project. Mr. Sciabarrai said that they haven't done anything different with the Veritas project other than it will have more identity. Ms. Chua said that she is very impressed with the design.

Commissioner Williams said that what they are bringing to the community is far better than Cisco as far as architecture and recognition.

Chair Hay asked how the curtain wall design would hold up in an earthquake. Mr. Sciabarrai said that they hold up very well. Mr. Hay said that he thinks it is a beautiful design.

RECESS

Chair Hay call a 10-minute recess at 9:25 P.M.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Drive, said that architecturally he really loves this project and his one concern is that McCarthy Boulevard is only two lanes and he would like to see provisions made to make it three lanes. Mr. Richerson asked if there are any provisions being made for zero emission vehicles.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 7

Vice Chair Nitafan asked for clarification on the methodology for determining fair share traffic impact fees. Sr. Transportation Planner Oliva said that there were many significant unavoidable impacts and they were addressed with a dollar and cents figure per intersection impact, noting that they originally developed this methodology for the Irvine project.

Chair Hay said that based on the Hexagon study, the projection for 2015 states that traffic

impacts would be unacceptable and commented that there would be 3000 employees. Mr. Sciabarrasi explained that they are a very flexible company that allow their employees to telecommute and work flexible hours around the clock which helps to eliminate the traffic impacts.

Commissioner Williams referred to the tree that would be removed and suggested that it be replaced with an artistic monument that would represent Veritas. Mr. Williams said that he looks at the long range and they need to prepare for traffic in the future. Traffic Engineer DeLeon said that the future plans with the Dixon Interchange is that they will have the capacity to widen it to 10 lanes.

Chair Hay said that the growth is continuing and they need to be prepared for the future.

Principal Planner Burkey pointed out that the building is set back more than 100-feet and should the City ever want to widen McCarthy they could do so.

Commissioner Chua asked the applicant if they were agreeable with the conditions of approval. Mr. Sciabarrasi said that they have been working with staff to meet all requirements on the revised conditions.

Vice Chair Nitafan referred to condition no. 9 regarding signage and requested to change the wording to read approval by the Planning Commission and not Planning Commission Subcommittee.

Chair Hay asked what carpool/vanpool matching is. Mr. Oliva explained that it is a way for a company to promote carpooling.

Chair Hay requested that shuttle service between multiple work sites to be added under TDM practices. Mr. Hay asked what parts of this project are open and available to the public. Mr. Burkey replied that other than the sidewalk area and the five parking spaces that provide access to the creek trail, it is private property.

Motion to approve Site and Architectural Review subject to findings with 28 special conditions and to amend condition no. 9 to read that signage issues should be taken to the Planning Commission instead of the Planning Commission Subcommittee.

Commissioner Lalwani asked if they could get a confirmation from the applicant if need be, McCarthy Boulevard can be widened. Director Barone said that this project can not be conditioned to require widening of the roadway and this project has a site design that does not prohibit the widening of McCarthy Boulevard.

M/S: Chua/Nitafan

AYES: 7

NEW BUSINESS

Sunny Hills Breakfast

Commissioner Chua announced that there would be a Sunnyhills Breakfast on November 5, 2000 at 6 a.m. and the Planning Staff would be giving a presentation.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:50 P.M. to the next regular meeting of November 8, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

October 11, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, NitaFan, Chua, Sandhu, Lalwani, Williams

Absent: Montano

Staff: Burkey, Tilley, Schmidt, Faubion, Ramsay, Guido, Johnson

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, stated that the Global Village Festival was an absolute success and a fantastic event.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of September 27, 2000.

Motion to approve the minutes of September 27, 2000 as submitted.

M/S: NitaFan/Chua

AYES: 6 (Hay, NitaFan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

ANNOUNCEMENTS

Vice Chair NitaFan announced that he attended the grand opening of the Cisco daycare

project and said it was a very enjoyable event.

Commissioner Chua said that she also attended the grand opening of the Cisco daycare project and said it was a very warm opening. Ms. Chua said that she also attended the Sunnyhills Homeowners Association picnic and breakfast. Lastly, Ms Chua said that she attended the Floodplain Management Committee Meeting last night.

Commissioner Williams said that he attended the grand opening for Cisco and suggested to one of the Directors that the daycare facility be opened to Milpitas residents noting that the Director was very receptive to the idea and would be coordinating through the City for residents to come and tour the facility.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Chair Hay pointed out that the selection process for the Planning Commission Subcommittee should take place at tonight's meeting and added it to the agenda as item no. 11.

Motion to approve the agenda as amended.

M/S: Nitafan/Williams

AYES: 6 (Hay, Nitafan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Principal Planner Burkey noted that he would like to change staff's recommendation for item nos. 5 and 6, regarding Calaveras Ridge Estates, at the applicants request, to continue both items to the January 10, 2001 meeting

Chair Hay requested that item no. 3, Veritas Corporation, to be removed from the consent calendar.

Chair Hay opened the public hearing on item nos. 1, 4, 5 and 6 and 8.

There were no speakers.

Motion to close the public hearing on item nos. 1, 4, 5 and 6 and 8.

M/S: Nitafan/Williams

AYES: 6 (Hay, Nitafan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

- 1. USE PERMIT NOS. 1522 A&B-REISSUANCE:** A request for two consecutive six month extensions (total of 12 months) on approval of a temporary canopy tent used for storage. Location: 195 S. Milpitas Boulevard. Applicant: Seagate. Project Planner: David Tilley. (**Approved subject to findings with 4 special conditions**).

4. **USE PERMIT NO. 1340-AMENDMENT:** A request to allow beer and wine sales in conjunction with a restaurant. Location: 516 Barber Lane (Milpitas Square). Applicant: Okra Inc. Project Planner: Frank Guido. (**Approved subject to findings with 2 special conditions**).
5. **VARIANCE NO. 509:** Proposal to exceed the current one-story, 17 ft. building height limitation with a two-story building by up to 27 ft. high. Location: Lot 4 in "Calaveras Ridge Estates" on east side Calaveras Ridge Drive. Applicant: Haresh Panchal. Project Planner: Therese Schmidt. (**Close the public hearing and continue to the January 10, 2001 meeting**).
6. **PLANNED UNIT DEVELOPMENT NO-. 23 AMENDMENT** Amend the "Calaveras Ridge Estates" PUD, to define structure height as being finished grade to the mid-point of the roof (i.e. halfway between the eave and the ridge of the roof). Location: South end of Calaveras Ridge Drive. Applicant: Calaveras Ridge Homeowners Association. Project Planner: Therese Schmidt. (**Continue to the January 10, 2001 meeting**).
8. **VESTING MAP TIME EXTENSION:** Request for one-year time extension for "Countryside Estates", a 6 lot Hillside residential subdivision res. Location: 24+/- acres at 1499 Country Club Drive. Applicant Adrienne Rakitin. Project Planner: Steve Burkey. (**Recommend approval to the City Council**).

Vice Chair Nitafan and Commissioner Chua abstained voting on item nos. 5, 6 and 8, due to a conflict of interest.

M/S: Nitafan/Chua

AYES: 6 (Hay, Nitafan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

PUBLIC HEARINGS

2. Reissue Use Permit No. 1494.

Junior Planner Guido presented a proposal to allow a temporary vendor to sell custom wood signs from a trailer located on 301 Ranch Drive.

Chair Hay opened the public hearing on item no. 2.

There were no speakers.

Motion to close the public hearing on item no. 2.

M/S: Nitafan/Chua

AYES: 6 (Hay, Nitafan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

Motion to approve Use Permit No. 1494 subject to findings with 11 special conditions.

M/S: Nitafan/Williams

AYES: 6 (Hay, Nitafan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

3. Site and Architectural Review (Veritas)

Principal Planner Burkey noted that the "S" Zone Application for a 990,990 square foot research and development campus on the west side of North McCarthy Boulevard was continued to the next meeting.

Commissioner Williams suggested that an independent traffic assessment be done for a comparison of results. Mr. Burkey replied that he has extreme confidence in the Milpitas Transportation and Traffic Engineering staff who provides a very thorough and critical review of the traffic impact assessment submitted. Mr. Williams said that he honors the confidence in staff's capability. Chair Hay commented that it is critical that extra care is taken when doing this study.

Mr. Burkey said that the impact of the developments of the Veritas site was covered by the EIR and there were significant traffic impacts. Chair Hay commented that they shouldn't give up, they should still focus on ways to improve traffic impacts. City Attorney Faubion stated that overriding considerations is not the same thing as ignoring the situation. Ms. Faubion also pointed out that adopting overriding considerations does not mean that the design goes out the window.

Chair Hay requested that Sr. Transportation Planner Oliva should be present at the next meeting to discuss the Veritas project.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Dr., said that he is bothered by the fact that this a project this large was put on the consent calendar. Mr. Burkey noted that when the only action was continuance of a project, large or small, the matter typically is put on consent.

Motion to continue the public hearing to the October 25, 2000 meeting.

M/S: Nitafan/Williams

AYES: 6 (Hay, Nitafan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

7. Hillside Site & Architectural Review

Project Planner Schmidt presented a proposal for a new single family residence in the Hillside located at 517 Vista Ridge Drive.

Vice Chair Nitafan and Commissioner Chua abstained from voting due to a conflict of interest.

Commissioner Sandhu asked how many lots there were on the site and how many were already built. Ms. Schmidt replied that there are 26 lots and about two-thirds of them are built.

Chair Hay asked if the residents are required to build their own wells. Mr. Burkey replied that he wasn't sure how many of them would be serviced by individual wells.

Commissioner Williams asked if the requirement for low wattage of the lights is intended to avoid light pollution. Ms. Schmidt said that yes it is.

Chair Hay opened the public hearing.

Kevin Chiang, applicant's architect, 204 Francisco Lane, Fremont, said that his two concerns are the staff recommendation against the proposed chain-link fence and lighting. Mr. Hay asked if the chain-link fence would be painted green. Mr. Chiang said yes. Mr. Hay asked if that is the recommendation. Ms. Schmidt noted that the Zoning Ordinance was amended and currently prohibits chain-link in the Hillside, unless it is around a tennis court and therefore it has to be denied.

Dave Richerson, 1920 Yosemite Drive, asked if the height of the house is within the limits of the hillside ordinance. Mr. Burkey said that yes it is.

Motion to close the public hearing.

M/S: Williams/Sandhu

AYES: 4 (Hay, Lalwani, Sandhu, Lalwani, Williams)

ABSTAIN: 2 (Nitafan/Chua)

ABSENT: 1 (Montano)

Commissioner Sandhu said that as long as this project doesn't violate any ordinance he is in support of it.

Chair Hay said that he is in support of staff's recommendation except for special condition no. 6 which refers to impacts of the lighting.

Motion to recommend approval to the City Council with the exception of special condition no. 6.

M/S: Williams/Sandhu

AYES: 4 (Hay, Lalwani, Sandhu, Lalwani, Williams)

ABSTAIN: 2 (Nitafan/Chua)

ABSENT: 1 (Montano)

RECESS

Chair Hay called a 7.5 minute recess.

9. 2000-2004 Redevelopment Implementation Plan

Finance Director Johnson presented a proposal to identify redevelopment goals, objectives, programs, projects, expenditures and affordable housing plans.

Vice Chair Nitafan asked if a percentage of funds are set aside for affordable housing. Mr. Johnson replied that they are required to set aside 20%.

Commissioner Chua asked for clarification on expenditures. Mr. Johnson explained that funding for a Redevelopment Agency comes from property taxes and the County Assessor assesses all properties in the county and based on the total assessed value of the project area they have a base amount of property tax revenue. The Redevelopment

Agency receives 100% of the value increase of that property,

Commissioner Williams asked if the affordable housing would be targeting seniors. Mr. Johnson replied that no it would not target seniors, it would be affordable housing for anyone who meets the qualifications.

Commissioner Lalwani asked who decides the area of redevelopment, the City or the County. Mr. Johnson stated that it is the City that decides the area of redevelopment.

Chair Hay asked for clarification on who controls the allocation of the affordable units. Mr. Johnson responded that it is very flexible and is usually negotiated. Mr. Hay asked if the number of allocated units per city is based on State requirements. Principal Planner Burkey clarified that it was State Housing Element requirements that determined how a City's "fair share" allocation of affordable housing was determined.

Vice Chair Nitafofan asked how the Midtown Specific Plan fits into the redevelopment. Mr. Johnson said that they are looking at expanding redevelopment to include the Midtown area.

Commissioner Chua suggested that the source of funds be indicated on the report.

Vice Chair Nitafofan suggested that staff continue to identify non-RDA areas with improvement needs that could use RDA funds.

Dave Richerson, 1920 Yosemite Drive complemented Mr. Johnson on the wonderful job he was doing.

Motion to recommend approval of the 2000 - 2004 Redevelopment Implementation Plan to the City Council.

M/S: Nitafofan/Chua

AYES: 6 (Hay, Nitafofan, Chua, Lalwani, Sandhu, Williams)

ABSENT: 1 (Montano)

10. Mobil Workshop

Principal Planner Burkey requested that a date be set for a Mobil Workshop on various housing densities to be held on Saturday, November 4th or Saturday, November 11, 2000. Staff's recommendation is November 11, 2000 from 9:00 AM to 1:00 PM. It was the consensus of the Commission that November 11, 2000 would be the scheduled date for the Mobil Workshop.

11. Planning Commission Subcommittee Appointments

Commissioner Williams was appointed the first Subcommittee member, Commissioner Sandhu was appointed the second Subcommittee member and Commissioner Chua was appointed the alternate Subcommittee member.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:50 PM to the next regular meeting of October 25, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

September 27, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Lalwani, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Tilley, Faubion, Ramsay, Schmidt, Barone

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of September 13, 2000.

Motion to approve the minutes of September 13, 2000 as submitted.

M/S: Nitafan/Montano

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey asked the Commissioners if they wanted to sponsor one of the Sunnyhills Homeowners Association Community Breakfasts. Commissioner Chua volunteered to organize and coordinate this effort. It was the consensus of the Commission to volunteer to serve at the November 5, 2000 Community breakfast.

Mr. Burkey announced that the issue of temporary signs being posted at Campbell's Corner has been addressed by the City's Code Enforcement staff. Director Barone

commented that staff is doing everything they can to move the Campbell's Corner project forward. Chair Hay said that he is opposed to the placement of signs without permission saying it is an abuse of property rights.

Ms. Barone announced that the Whistle Stop Housing Tour III for Y2K will be held on Friday, October 20, 2000 at the downtown Mountain View station and recommended that the Planning Commission attend.

Commissioner Sandhu asked for the status of improvements that are being done on Singley Street. Traffic Engineer DeLeon said that is a resurfacing project and explained that the City is repairing some drainage problems and putting in handicap ramps and they are very close to completing that project.

Vice Chair Nitafan commented that there is speeding problems on Spence Street. Ms. DeLeon said that if the neighbors submit a signed formal petition regarding the issue the City would hold a public meeting to address the issue.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Chua

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearing on consent item no. 1.

Kevin Chiang asked if this project would still be on the consent calendar when it is continued on October 11, 2000. Principal Planner Burkey said that if there are no outstanding issues it would be put on the consent calendar but they won't know until the staff report is finalized, and that even then, any item can be taken off the Consent Calendar if so requested by a Commissioner.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 1. HILLSIDE SITE & ARCHITECTURAL REVIEW:** A request to develop a two story single family residence at 517 Vista Ridge Drive (Lot 8, Spring Valley Heights). Applicant: Yih-Ing Wang. Project Planner: Therese M. Schmidt. **(Open the public hearing and continue to October 11, 2000).**

M/S: Nitafan/Williams

AYES: 7

PRESENTATION BY VALLEY TRANSPORTATION AGENCY

Archer Walters, Project Manager for Tasman East and Capitol light rail projects presented a review of the temporary impacts and detours associated with the Tasman East light rail construction in Milpitas.

Commissioner Williams expressed his appreciation for the detail of the presentation and commented on the situation at Great Mall Parkway and Main Street and at Capitol and Abel. Mr. Williams went on to say that there are blocked off left turn lanes and the construction staffs vehicles are occupying those blocked off lanes. Mr. Walters said they would address that problem and he encouraged anyone with questions about this project to call the Community Outreach number.

Chair Hay commented that the commuters make a left turn onto Abel instead of using Main Street where they have to wait 30 minutes or longer. Mr. Hay and Traffic Engineer DeLeon discussed the situation at the Abel Street intersection.

Commissioner Williams said that the whole thing is perception and the public does not fully understand what the plans are and how long it is going to take.

Vice Chair Nitafan said that the work should be publicized.

Commissioner Sandhu asked if the City utilizes the City's radio station. Director Barone said that yes they do and commented on the City's public information outreach program efforts that have been pursued for this project.

Commissioner Montano asked for the status of the pile driving. Mr. Walters replied that they are behind schedule on the pile drive but they were expected to start today.

Commissioner Lalwani asked if the LTR project would be completed by spring 2004. Mr. Walters said that yes it would.

Vice Chair Nitafan asked if the LRT elevation design was taken into consideration with BART coming in. Mr. Walters said that they have made provisions for the future pedestrian overcrossing to a future BART station.

Ms. Barone pointed out that the LRT was not designed with the assumption that BART would be coming through.

Chair Hay discussed the LRT construction impacts at Zanker Road with Mr. Walters.

Dave Maracchini, Milpitas resident commented that it seems that there was no planning done on this project and suggested that they open at 9:00 am.

Dave Richerson said that the VTA Public Outreach efforts have been excellent and suggested that signs be used to notify the community of future upcoming projects and changes.

Commission Williams commented that in the past what the public has been seeing is LRT surface construction and said that they need to be made aware that most of construction in Milpitas requires "false work" structures to support the overhead LRT work at intersections.

Vice Chair Nitafan suggested that a picture of the future light rail project would help to inform the community.

PUBLIC HEARINGS

2. "S" Zone Amendment

Assistant Planner Tilley presented a request to install a pedestrian railing outside of the future 24-Hour Fitness located at 577 E. Calaveras Blvd., to direct patrons towards the rear parking lots of the Town Center.

Commissioner Montano asked if the rail would be solid. Mr. Tilley said that it is a 42-inch high steel railing.

Chair Hay asked why Shapell wants a railing. Mr. Tilley said that one of the major tenants in the shopping center is concerned that they would have to compete for parking spaces, however staff feels there is little need for concern since retail peak hours are during the day and 24-Hour fitness peak hours are in the evening adding that there are 400 parking spaces in the rear.

Commissioner Chua asked the occupancy of the fitness center. Mr. Tilley said that maximum occupancy is 400, however they only expect about 148 customers during their peak time.

Vice Chair Nitafan asked if staff and the applicant had met with the homeowners association of the nearby residents. Mr. Tilley replied that they were not able to get a meeting scheduled.

Mark Noack, 24-Hour Fitness, 6668 Owens Drive Pleasanton, CA 94688 asked for clarification that the approval or denial of this project would not change any of the previous approvals. Planning staff and Commission agreed that it would not. Mr. Noack went on to say that they are requesting approval of the rail and they are being asked to do so by a tenant that has approval rights over the project and they will approve the project with the rail but will not approve the project without it.

Erick Schwartz, Shapell Industries, 100 N. Milpitas Blvd., confirmed what Mr. Noack said.

Vice Chair Nitafan asked what purpose the rail would serve other than to encourage use of the rear parking area. Mr. Schwartz replied that the purpose of the rail is to get a stipulation in writing from Staples to approve 24-Hour Fitness in the Town Center. Chair Hay asked what is the point of the rail. Mr. Schwartz said that Staples feels that by putting in the rail it would help preclude 24-Hour Fitness patrons from parking spaces close to Staples.

Commissioner Lalwani suggested that they compromise and if there is a problem in about 4 or 5 months then action could be taken at that time. Mr. Noack said that they previously tried to compromise the situation with Staples and ended up at the point they are at now.

Commissioner Montano asked why Staples has these approval rights. Mr. Schwartz explained that they were given those leased their space.

Commissioner Sandhu asked who would pay for this public railing. Mr. Schwartz said that Shapell would pay for the railing.

City Attorney Faubion stated that the terms of a lease between a landlord and the tenant are not the business of the City unless it is directly related to a land-use issue.

Commissioner Chua questioned what type of business would be put in if they were to deny this project. Mr. Schwartz said that he doesn't know.

Dave Maracchini said that the Planning Commission shouldn't make their decision based on noise impacts to the residents but rather the impacts on the shopping center.

Dave Richerson, 1920 Yosemite Drive said that Staples' action is just blind corporate arrogance.

Motion to close the public hearing.

M/S: Nitafan/Montano

AYES: 7

Commissioner Montano said that she doesn't like what Staples is doing and added that her decision would be based on what is best for the community.

Commissioner Williams expressed great displeasure with Staples' actions in this matter calling it greed and stating that it is not the community spirit and not what Milpitas is all about.

Commissioner Chua said that she agrees with Mr. Williams and added that she hopes the 24-Hour Fitness would bring more people to the Town Center.

Commissioner Lalwani pointed out that Staples is only looking at what would happen if the 24-Hour Fitness was to move in and they are not looking at what would happen if they did not move in, saying that if that space is left empty it would adversely effect Staples' business.

Commissioner Sandhu said that he thinks Staples has the wrong attitude about this project and added that he thinks 24-Hour Fitness is a very good project.

Chair Hay said that he is frustrated that they are even discussing this issue and pointed out that the railing is not going to make any difference as far as where people are going to park, it would only be an irritation to people and would have no value. Mr. Hay went on to say that this project should have been handled at a lower level.

Motion to approve "S" Zone Amendment subject to findings.

M/S: Chua/Williams

AYES: 6 (Hay, Nitafan, Lalwani, Sandhu, Chua, Williams)

NOES: 1 (Montano)

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:35 PM to the next

regular meeting of October 13, 2000.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

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**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
September 13, 2000**

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

OATH OF OFFICE

City Clerk Gail Blalock administered the oath of office to new Planning Commissioner Deepka Lalwani.

ROLL CALL

Present: Hay, Williams, Lalwani, Montano, Sandhu, Chua, NitaFan

Absent:

Staff: Burkey, Tilley, Guido, Schmidt, Whitnell, Ramsay, Dixon, Randisi

RECOGNITION OF COMMUNITY SERVICE

Retired Councilwoman Barbara Lee and Councilwoman Patricia Dixon thanked Debora Burch for her nine years of community service as a commissioner with the City of Milpitas and presented her with a plaque of recognition. Chair Hay called a short recess for refreshments.

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of August 23, 2000.

Commissioner Chua said that on page 5, paragraph 6, her suggestion should be noted that a local Milpitas artist should be given the opportunity to add a water sculpture to the

building.

Motion to approve the minutes of August 23, 2000 as amended.

M/S: Nitafan/Chua

AYES: 6 (Hay, Nitafan, Montano, Sandhu, Chua, Williams)

ABSTAIN: 1 (Lalwani)

ANNOUNCEMENTS

Principal Planner Burkey introduced Frank Guido and announced that he was hired as a Junior Planner.

Mr. Burkey announced the City Council's approval of the hillside home at 422 Vista Ridge.

Mr. Burkey announced that in response to Vice Chair Nitafan's concerns the outdoor lighting for the Community Center is in the process of being restored and said that some of the lights had burned out and would be replaced.

Commissioner Sandhu announced that he attended the Sikh Foundation and he thanked all of the participants.

Commissioner Chua said that she attended a Floodplain Management Public Forum at the police station and said there was a good turn out of residents. Chair Hay asked staff to agendaize a presentation for this at an October Planning Commission meeting.

Vice Chair Nitafan announced that he and Commissioner Montano attended the League of California Cities Annual Conference which was very enlightening. Chair Hay asked staff to look into sending the Youth Advisory Commission to this conference in the future.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Chua

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Vice Chair Nitafan said that on consent item no. 2 a special condition should be added to indicate that alcohol is for indoor consumption only.

Commissioner Sandhu said that he would like to add a six-month review as a special condition for consent item no. 2.

Chair Hay opened the public hearing on consent item nos. 1 and 2.

There were no speakers.

Motion to close the public hearing on consent item nos. 1 and 2.

M/S: Nitafan/Williams

AYES: 7

Motion to approve the consent calendar with the addition on two special conditions to item no. 2 as recommended by the Planning Commission with staff recommendation and special conditions as follows:

1. **TENTATIVE MAP:** Subdivision map establishing one parcel and dedicating easements at 755 Capitol Avenue ("Crossings @ Montague" site). Applicant: Alan Friis. Project Planner: David Tilley. **(Approved subject to findings with 11 Special Conditions).**
2. **USE PERMIT NO. 1532:** Add beer and wine sales to café at 1679 North Milpitas Boulevard (Crescent Square). Applicant: Theresa Lo. Project Planner: David Tilley. **(Approved subject to findings with 3 Special Conditions and two additional Special Conditions).**
5. **"S" ZONE APPROVAL AMENDMENT:** Sign Program for McCarthy Ranch Marketplace Phase III at southeast corner of McCarthy Boulevard and Ranch Drive. Applicant: Hunter Properties. Project Planner: Therese Schmidt. **(Approved subject to findings with 3 Special Conditions).**

PRESENTATION

Principal Planner Burkey introduced representative Gil Chesos who was invited at the request of Commissioner Montano to discuss issues and concerns regarding the Newby Island landfill.

Commissioner Montano explained that her concern is that the landfill continues to get higher and she would like clarification as to what is the maximum height allowed for a landfill.

Mr. Chesos said that the landfill that can be seen from the road hasn't changed in height over the last five years and said that there is about 19 years of landfill capacity left. Commissioner Montano asked what would happen after 19 years. Mr. Chesos said that they would need to look for other options. Ms. Montano asked how Milpitas would fit in to the picture. Mr. Chesos said that he would look into that for her.

Commissioner Sandhu asked if there are any plans to landscape that area. Mr. Chesos replied that it would eventually be open space.

Commissioner Williams commented that he has worked in the Fremont/Milpitas area for 30 years and said that there is definitely an odor problem that comes from the site when the wind blows in that direction. Mr. Williams asked what is the typical amount of exposed acreage. Mr. Chesos said that at the end of the day all of the garbage is covered.

Commissioner Chua said she is concerned about what will happen to Milpitas after the 19

years when the landfill capacity has been reached and asked if BFI would come back before the commission with their future plans. Mr. Cheso agreed that BFI would come back to report on that issue. Chair Hay said that the future plans are also a concern to him and it would be helpful to know what Mr. Cheso plans to do.

Dave Richerson, 1920 Yosemite Dr, said that he noticed on the model that there was a potential future natural gas facility and asked if there is currently planning going on for that. Mr. Cheso responded that the model is not exact and they currently use methane to generate electricity.

PUBLIC HEARINGS

3. Compliance with Conditions of Approval for Use Permit no 155 & "S" Zone

Assistant Planner Tilley presented a proposal for the final review and approval of Home Depot building architecture, signage and landscaping, parking deck, and outparcel parking lots located at the Great Mall of the Bay Area.

Chair Hay referred to the parking field for Home Depot asked if there was a landscape planter there. Mr. Tilley said yes there is. Mr. Hay asked if staff has thought of changing that to parking. Mr. Tilley said that was not staff's recommendation.

Commissioner Williams referred to the staff report where it mentions that the parking deck has been designed to accommodate future expansion of parking if necessary and asked what would be the triggering mechanism for this expansion. Mr. Tilley replied that it would be if during the holiday season the valet parking and the parking deck doesn't solve the parking problem.

Commissioner Montano asked if the street has the capacity for truck tonnage. Mr. Tilley said that yes, the street has the capacity for truck tonnage.

Chair Hay asked if this is a situation where the Great Mall guarantees not to lease some space to reduce their parking requirement. Mr. Tilley said that there was no change to the required non-leasable area other than which was approved previously.

Tim Ridner, Pyramid Group, 17367 Monterey Road, Morgan Hill, said he would clarify some previous questions and said that there is a three year timeframe for the parking review process and also that the parking deck would not be visible from public streets.

Roger LeBlanc, Swerdlow Real Estate Group, 300 Hollywood Way, Hollywood, FL, presented a review of the Home Depot's landscape plans.

Commissioner Williams asked what size trees would be put in. Mr. Tilley said that they would use 15 gallon and 24 inch box trees.

Chair Hay said that parking area no. 1 is shielded by trees and he would like to make sure that it doesn't become a storage area for this Home Depot as it did for the other Home Depot.

Bill Boyle, Architect for Home Depot, said that this building design will work well and there is no reason not to have a well-maintained premise and there are clearly defined

areas for storage.

Commissioner Chua commented that the Home Depot has made the effort to clean up the front of their stores.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 7

Motion to approve Compliance with Conditions of Approval; Use Permit No. 1555 & "S" Zone (Home Depot) subject to findings with 5 special conditions.

M/S: Chua/Nitafan

Commissioner Williams said that the Home Depot and Great Mall really need to work together to make this project work.

Vice Chair Nitafan said that he hopes this Home Depot doesn't have the same problems as the other Home Depot.

Commissioner Sandhu commented that this project is already approved and they are just approving the design of the building and he hopes this project benefits the residents of Milpitas.

Commissioner Montano asked if the Home Depot signage would be on the freeway sign. Mr. LeBlanc said that would be negotiated with Home Depot.

AYES: 7

UNFINISHED BUSINESS

4. Streetscape Master Plan

Assistant Planner Tilley and Public Works Supervisor Randisi presented the Streetscape Master Plan.

Chair Hay commented that this is a big improvement over the first draft and this plan is going to be the major key to bring Milpitas the kind of environment that the community would like to have.

Vice Chair Nitafan said that there should be a protection of assets and also said that there should be some public art or monuments.

Commissioner Williams asked if other community documents have any provisions that dealt with another twist of the word asset protection. Ms. Randisi replied that the city is implementing an essential irrigation system with flow control, which will quickly detect leaks or breaks.

Commissioner Sandhu asked if other government agencies would follow these guidelines. Ms. Randisi said that yes the guidelines would be available to other agencies and developers.

Commissioner Chua commented that the guidelines for McCarthy Ranch should be referenced.

Commissioner Montano asked if this plan would replace trees in the neighborhood or just add new trees. Ms. Randisi said that they would replace trees and add trees. Ms. Montano asked if the Hetch Hetchy corridor is a priority for landscaping. Ms. Randisi replied trail development is identified in the Milpitas Trails Master Plan.

Motion to recommend adoption with proposed changes to the City Council.

M/S: Nita fan/Montano

AYES: 7

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:35 PM to the next regular meeting of September 27, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

[top](#)

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

August 23, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nita fan, Montano, Sandhu, Chua, Williams

Absent: None

Staff: Burkey, Tilley, Faubion, Ramsay, Whales, Marion

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of August 9, 2000.

Motion to approve the minutes of August 9, 2000 as submitted.

M/S: Nitafan/Williams

AYES: 5

ABSTAIN: 1 (Sandhu) (absent at last meeting)

ANNOUNCEMENTS

Chair Hay announced that Commissioner Burch had resigned from the Planning Commission and read the letter of resignation she sent to the Mayor and the City Council.

Principal Planner Burkey announced that the City Council approved the Home Depot project at its last meeting.

Commissioner Chua congratulated the City of Milpitas Chamber of Commerce, the vendors, performers, Boy Scouts, Girl Scouts and all the volunteers for participating in the Milpitas Art and Wine Festival which was a great success with over 50,000 attendees. Chair Hay complemented Ms. Chua for the excellent job she did as the festival's stage manager.

Chair Hay said that there is a post office sign posted at the YMCA that should not be there and asked staff to take the necessary steps to have it removed.

Chair Hay made a formal request to the Mayor, City Council and staff that they move forward expeditiously to fill the Planning Commission vacancy created by the resignation of Debbie Burch, noting that the Commission has had to use the rule of necessity often in the past to obtain a quorum.

Chair Hay pointed out that there are three signs on the construction fence at the Campbell's Corner property and asked City Attorney Faubion if that is legal. Ms. Faubion said that there are sign regulations that should be enforced by the City's Code Enforcement department. Mr. Hay asked that this issue be passed on to the Code Enforcement department.

Vice Chair Nitafan asked the status of adding lighting at the City Hall construction site. Mr. Burkey said that staff has not received any feedback on that yet. Mr. Hay said that this is a potential liability and asked that this issue be addressed at the next Planning Commission meeting.

Commissioner Montano again expressed her concern regarding the height of the landfill at the City Hall site. Mr. Burkey noted that this issue would be addressed at the next Commission meeting.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Chair Hay proposed to add as an urgency item under "New Business" the selection of new alternate for the Planning Commission Subcommittee, due to Commissioner Burch's resignation.

It was voted on and approved to unanimously add this item to the agenda.

Motion to approve the agenda as amended.

M/S: Nitafan/Chua

AYES: 6

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Principal Planner Burkey pointed out a letter from the applicant of consent item no. 3 that was not in the Commission's packet. Chair Hay asked the Commission to take a minute to review the letter.

Chair Hay opened the public hearing on consent item nos. 1, 2 and 3.

Commissioner Montano asked what is the ratio of children and adult supervision at the Footprints preschool.

The Footprints Preschool representative said that there are two adults for 24 children.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 6

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 1. USE PERMIT NO. 1566:** A request to operate a take-out style restaurant with 36 seats and no alcohol sales at 1741 N. Milpitas Blvd. (Crescent Square). Applicant: David King. Project Planner: Jonelyn Whales. **(Approved subject to findings with (16) special conditions).**
- 2. USE PERMIT NO. 1567:** A request to operate a take-out style restaurant with 4 seats and no alcohol sales at 1710 N. Milpitas Blvd. (City Square). Applicant: Ching Sung Shih. Project Planner: Kim Duncan. **(Approved subject to findings with (6) special conditions).**
- 3. USE PERMIT NO. 1499-AMENDMENT:** A request to modify landscaping and expand outdoor play area at 1651 N. Milpitas Blvd. (Crescent Square). Applicant: Footprints Preschool. Project Planner: Jonelyn Whales. **(Approved subject to**

findings with (4) Special Conditions).**STAFF PRESENTATIONS****A. Ortho-Photographic Data & Viewing Software**

Chief Information Officer Marion gave a presentation on ortho-photographic data (aerial photos and viewing software).

Commissioner Williams thanked Mr. Marion for the presentation and said that this tool would be useful in detecting whether a Commissioner lives in proximity to a project and might have a conflict of interest.

Vice Chair Nitafan asked the meaning of "ortho photography". Mr. Marion explained that when photos are ortho rectified they are manipulated so that they are correct in terms of their geographics.

Commissioner Montano asked for an example of what this application would be used for. Mr. Marion said that it would be useful for presentations and also as a background for GIS information.

Commissioner Chua asked if any other cities use this software. Mr. Marion replied that the City of Scottsdale uses this software and the City of San Jose has showed interest in the software.

Commissioner Williams asked if the City is electronically receiving auto cad plans. Mr. Burkey said that they are not.

Dave Richerson, 1920 Yosemite Drive, said that this is a fantastic development in a short period of time.

B. Streetscape Master Plan

Public Works Supervisor Randisi and Assistant Planner Tilley gave a presentation on the Streetscape Master Plan.

Cheryl Miller gave an overview of the Streetscape Master Plan format.

Commissioner Sandhu pointed out that his Streetscape Master Plan was incomplete and it was discovered that the Commission documentation was not up to date. Chair Hay suggested this presentation to be continued. The Commission went on to suggest some improvement that could be made to the Streetscape Master Plans format, with Vice Chair Nitafan suggesting that they add a section of dos and don'ts, cross-referencing and an index, and Commissioner Montano suggesting that the School District be mentioned under "public awareness".

Recess

Chair Hay called a 10 minute recess.

PUBLIC HEARINGS**5. Work Session on Veritas Project**

Principal Planner Burkey introduced the subject of work session to comment on

conceptual building architectural plans for Veritas R&D campus.

Ali Mogadashi, Sr. Vice President and Director of Design for HOK Architects gave a presentation on the architecture of the building.

Commissioner Chua said that she likes the accent color on top of the building. Ms. Chua suggested that the City's Street Scope Master plan would provide some landscaping guidelines.

Vice Chair Nitafo commented that the building appears too boxy and the walls of the building are thin and should be thicker and there are too many sharp corners on the architecture.

Commissioner Sandhu asked the height of the 4-story building. Mr. Mogadashi replied that it was about 60 feet high. Mr. Sandhu said he thought the colors were too bright. Chair Hay said that he agrees that the colors are too bright.

Commissioner Williams asked if there were any plans to add an architectural sculpture or artwork of some kind. Mr. Mogadashi said that they have not discussed that. Mr. Williams commented that the colors remind him of Microsoft Windows colors.

Commissioner Chua said that two buildings side-by-side with the same façade would look monotonous.

Commissioner Montano said that she liked the building very much and asked if there was a pond in the plans. Mr. Mogadashi said they would have a water feature. Ms. Montano asked if there was an EIR. Mr. Burkey replied that there was an EIR certified by the City Council last March, which supplemented the earlier 1997 McCarthy Ranch EIR mixed use.

Chair Hay said that it would be in the applicant's best interest to take a look at the traffic between 5:00 p.m. and 6:00 p.m. to observe the traffic gridlock.

Commissioner Chua pointed out that the engineers in the building would have flex hours and suggested that they give a local Milpitas artist the opportunity to add a water sculpture.

Chair Hay said that he likes the contrast of the glass and the siding and said that he is okay with the general design and suggested that they might find ways to get more depth in the area of the siding. Mr. Hay said that the corrugated metal reminds him of a barn. Mr. Mogadashi explained that the corrugated metal creates automatic shade and shadows and dust is resistant to the shape.

Chair Hay asked if there would be multiple cafeteria's or other eating areas. Mr. Mogadashi said that there would be one main cafeteria.

NEW BUSINESS

6. Appointment of Planning Commission Subcommittee Alternate

Commissioner Sandhu was appointed to be the Planning Commission Subcommittee

alternate.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:25 PM to the next regular meeting of September 13, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

August 9, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Montano, Chua, NitaFan

Absent: Burch, Sandhu

Staff: Barone, Burkey, Tilley, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of July 26, 2000.

Vice Chair NitaFan added to page 4, last paragraph that he questioned the conversion of the outparcels to parking spaces.

Commissioner Montano pointed out duplicate wording on page 13, last paragraph.

Motion to approve the minutes of July 26, 2000 as amended.

M/S: Nitafan/Montano

AYES: 5 (Hay, Nitafan, Montano, Chua Williams)

ABSENT: 2 (Burch, Sandhu)

ANNOUNCEMENTS

Principal Planner Burkey announced that the service that provides microphones for our meetings was detained tonight but other arrangements have been made.

Mr. Burkey announced that the City Council met on August 1, 2000 regarding the Midtown Specific Plan and concurred with staff's alternative recommendation with a 3/2 vote.

Commissioner Chua said that on behalf of the Chamber of Commerce she would like to invite the Commissioners and staff to attend the Art and Wine Festival on August 19 - 20, 2000 to be held at South Milpitas Blvd.

Vice Chair Nitafan announced that he drove past the City Hall construction site in the evening, said that it is very dark and suggested that staff look into getting some light on the site for safety purposes.

Chair Hay announced that he attended the inauguration of the Jain Temple, commented that it is an incredibly beautiful facility and encouraged all to attend.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 5 (Hay, Nitafan, Montano, Chua, Williams)

ABSENT: 2 (Burch, Sandhu)

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Chair Hay opened the public hearing on consent item nos. 1 and 2.

Motion to close the public hearing on consent item no. 1.

M/S: Nitafan/Montano

AYES: 5 (Hay, Nitafan, Montano, Chua, Williams)

ABSENT: 2 (Burch, Sandhu)

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

1. **USE PERMIT NO. 1556:** Request to install a 43 foot tall monopole with three telecommunication antennas and an equipment shelter at 1331 East Calaveras Boulevard (Ayer Education Center). Applicant: Sprint PCS. Project Planner: David Tilley. **(Close the public hearing and continue indefinitely).**
2. **USE PERMIT NO. 1566:** A request to operate a take-out restaurant with 36-seats and no alcohol sales at 1741 N. Milpitas Blvd (Crescent Square). Applicant: David King. Project Planner: Jonelyn Whales. **(Open the public hearing and continue to August 23, 2000).**

M/S: Nitafan/Montano

AYES: 5 (Hay, Nitafan, Montano, Chua, Williams)

ABSENT: 2 (Burch, Sandhu)

PUBLIC HEARINGS

Vice Chair Nitafan and Commissioner Chua chose to recuse themselves from the dais for this item due to a potential conflict of interested because they are real estate professionals.

3. Hillside Site and Architectural Review

Chair Hay stated that they would not have the quorum necessary to consider the next item, therefore they would enforce the rule of necessity which requires that names be drawn out of a hat to form a quorum.

Commissioner Chua's name was drawn out of a hat.

Project Planner Schmidt reviewed the request to develop a 5,953 square foot single family residence at 442 Vista Ridge Drive.

Commissioner Chua asked if the applicant agreed with all of the special conditions. Ms. Schmidt replied that the applicant is willing to meet all conditions.

Chair Hay opened the public hearing.

Kurt Peterson, Applicant, 1701 Curtner Avenue, Fremont, said that he and his fiancé are looking to make this house their main residence and are anxious to get started. Mr. Peterson said that they have designed the home to fit in with the neighborhood.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 4 (Hay, Montano, Chua, Williams)

ABSENT: 2 (Burch, Sandhu)

ABSTAIN: 1 (Nitafan)

Commissioner Chua said that she likes the contemporary design of the building.

Commissioner Williams said that this is an architectural style that will really enhance the community.

Commissioner Montano said that she likes the contemporary style.

Kurt Kline, Project architect, 624 Rhode Island, San Francisco, said that they choose to do a Northern California contemporary style.

Motion to recommend Hillside Site and Architectural Review subject to findings with 9 special conditions to the City Council for approval.

M/S: Williams/Chua

AYES: 4 (Hay, Montano, Chua, Williams)

ABSENT: 2 (Burch, Sandhu)

ABSTAIN: 1 (Nitafan)

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:20 PM to the next regular meeting of August 23, 2000.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

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**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES
July 26, 2000**

ROLL CALL

Present: Hay, Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Tilley, Rush, Faubion, Ramsay, Whales, Barone, Lindsay

WORK SESSION ON VERITAS PROJECT

Chair Hay opened the work session on the 65 acre R&D campus on west side of North

McCarthy Boulevard, opposite McCarthy Ranch Marketplace. The Veritas development team made a presentation to the Commission describing their company, their proposed development objectives and design concepts for the site. The Veritas development included Pat Doehrman and Luigie Sciabarrasi from Veritas, Rich Dowd and Ali Moghadassi from HOK Architects, and Dan Tuttle from SWA Landscape Architects. Discussion followed between the Commission and the development team about the project.

Chair Hay asked if putting in a park on the City of San Jose buffer strip has been considered. Principal Planner Burkey said that would be explored with San Jose.

Commissioner Williams asked if they would keep the large tree behind Wal-Mart. Mr. Tuttle replied that they have no intentions of taking it down unless it poses a liability.

Commissioner Sandhu asked what the word "Veritas" means. Mr. Moghaddasi said that it means "truth".

During a discussion with the Commission on the building site plan Mr. Moghaddasi explained that Veritas' goal is to have a self-sustained campus.

Commissioner Chua suggested that a day care center be considered. Mr. Moghaddasi said that Veritas would like to have one. Mr. Burkey said that since the "MP" District does not allow daycare centers, a zoning ordinance amendment would be needed to allow such a use on this site.

Ms. Chua asked about the location of the largest conference facility. Mr. Moghaddasi said they did not know the answer at this time. Ms. Chua asked what is their projected staffing. Mr. Moghaddasi replied that it would be approximately 3000.

Chair Hay said that this is a unique design but he is concerned about the traffic that the employees would have to endure and he can not support a project that would cause traffic gridlock.

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of July 12, 2000.

Motion to approve the minutes of July 12, 2000 as submitted.

M/S: Nitafan/Montano

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey said that staff is still waiting for information in regards to paint peeling on the Great Mall sign as Commissioner Montano requested at a past meeting.

Commissioner Sandhu announced that last Saturday was International potluck night and the Sikh Foundation of Milpitas participated along with many other organizations.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Mr. Burkey explained that though the Streetscape Master Plan presentation was scheduled for this meeting Project Manager, Carol Randisi would be unable to present tonight because she broke her arm, therefore the item would either have to be continued until August 23, 2000 or the Commission could act on it tonight without the presentation. At the request of Commissioner Montano it was decided that the Streetscape Master Plan presentation be placed on consent and continued to the August 23, 2000 meeting.

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

X. STREETSCAPE MASTER PLAN PRESENTATION: Review of draft document. Presentation by project Consultant, Amphion environmental. Staff contacts: Carol Randisi and David Tilley. **(Continue to the August 23, 2000 meeting).**

2. "S" ZONE APPROVAL / EIA NO. 748: A request to develop an industrial/R&D campus near the intersection of Yosemite Drive with Sinclair Frontage Road with six buildings totaling approximately 163,000 square feet of gross floor area, demolition of existing industrial buildings, and related site improvements. Applicant: WP Investments. Project Planner: David Tilley. **(Approved subject to findings with 27 Special Conditions)**

3. "S" ZONE APPROVAL AMENDMENT: A request to remove a tree at City Hall construction site, 455 East Calaveras Boulevard. Applicant: City of Milpitas. Staff Contacts: **James Kelcourse, 586-3163**, and Steve Burkey. **(Approved subject to findings with 2 Special Conditions).**

PUBLIC HEARINGS**1. Use Permit No. 1555/"S" Zone Approval / EIA No. 749**

Assistant Planner Tilley presented a proposal for:

- a. Development and operation of a new 134,568 square foot Home Depot store with garden center and related site improvements on 9.23 acres at the southeast corner of South Main street and Great Mall Drive;
- b. Construction of an elevated parking deck with approximately 650 parking spaces near the northeast corner of the Great Mall complex;
- c. Site modifications including realignment and reduction from four lanes to two lanes of the existing outer ring road and modifications of existing parking areas generally between the intersections of Great mall Drive with South Main Street and Great Mall Parkway;
- d. Conversion of the two remaining undeveloped outparcels along Great mall Parkway to parking lots, total of ± 2.5 acres located at Great Mall of the Bay Area.

Commissioner Williams stated that though he lives within 2500 feet of this proposed project he does not feel that it would be a conflict of interest.

Commissioner Montano stated that she lives within 2500 feet of this proposed project that since that could be viewed as a potential conflict of interest she would be abstaining from voting on this project.

Commissioner Williams said when they were involved in the Great Mall a couple years ago and looking at the growth that would be taking place, was it part of a condition that the Great Mall would be monitoring the parking and would consider putting in a parking deck should it become necessary. Mr. Tilley said yes there was a condition placed on the Great Mall and they do monitor parking during the holiday season and if certain parking thresholds are exceeded a parking deck would be considered.

Vice Chair Nitafan asked why they allowed this project to come forward if they already have the Great Mall plan, and questioned the conversion of outparcels to parking spaces. Mr. Tilley said that while the outparcels were regarded as "General Commercial" use since conception of the Great Mall project, since the Home Depot is a conditional use the Planning Commission retains discretion regarding its appropriateness.

Chair Hay referred to the Negative Declaration for the project and asked if they have kept 20,000 sq. ft. unleased since that requirement went into effect. Mr. Tilley replied that some of the numbers that are included in that report that are relative to gross leasable area reduction, are inaccurate. Specifically when the movie theater building was moved outward from the mall structure, making it an independent structure there was a loss of parking. Mr. Tilley said that in order to compensate for the loss of parking the applicant proposed and the Planning Commission approved a 5% reduction in the mall's gross leasable area and that 5% is not 20,000, it is more than 58,000 sq. ft. If the mall's gross leasable area is reduced; the amount of traffic coming to the mall is also reduced. Chair Hay asked if they have complied with the requirements. Mr. Tilley said yes. Mr. Hay asked who monitors this. Mr. Tilley said that the City staff and Great Mall ownership is conditioned to submit quarterly reports to the City demonstrating that they are 5% vacant.

Chair Hay said that the mitigated Negative Declaration refers to different scenarios and their impact on traffic volumes, noting that scenario no. 2 talks about background or basecase conditions and asked for clarification of which project that refers to. **Brett Walinski**, Hexagon Transportation Consultants, 40 S. Market Street, Suite 600, San Jose, said that refers to the Home Depot project and the approved developments.

Chair Hay commented that this proposal shows zone 4 is where Home Depot would be built and zone 1 is where the parking structure would be built, noting that they are adding parking demand in zone 4 and taking away parking places and adding new demand and shifting parking availability from zone 4 to zone 1 and some of it would be shifted to zone 2. Mr. Tilley confirmed that was correct and explained that the total number of parking spaces for the Home Depot and the Great Mall combined and be provided at the site, however, some of the existing parking stalls would be lost. Mr. Hay asked if the people that are going to go to the Home Depot are going to park and then walk over to Home Depot. Mr. Tilley said that the requirement of Home Depot parking can easily be met in that parking field, however, it is the use of parking spaces there that is being replaced elsewhere around the mall.

Chair Hay referred to six major intersections and asked if staff is suggesting with the mitigation measures that putting a Home Depot in this location would be an improvement in the level of service in these intersections. Mr. Tilley replied no, that, with respect to traffic, the impacts from this project would not degrade those intersections in excess of City's standards.

Chair Hay said that since traffic counts have been done and since the supplemental EIR was done in 1998, it appears that reality has far surpassed projections. Traffic Engineer, De Leon stated that the traffic study is prepared according to the Congestion Management Agency guidelines and in generating the data they have to make assumptions based upon the trip of rate per given use.

Vice Chair Nitafan commented that the report states that having this project at this site would be a degradation of the quality of life such as noise level, public services, transportation and traffic. Mr. Nitafan asked that if they requested a new EIR, would they gain additional support to deny this project. Mr. Tilley said that the Planning Commission has sufficient authority and ability to deny this project that staff is not recommending denial based on environmental grounds; rather because of concerns about basic land use compatibility.

Commissioner Sandhu asked if this project would do anything to improve the quality of life for Milpitas residents. Mr. Tilley replied that from an environmental and land use standpoint it would not. Planning and Neighborhood Preservation Director Barone commented that anyone could argue that having a Home Depot in a city is advantageous, it would be a convenience and produce a significant sales tax revenue that ends up going to the City.

Mr. Sandhu said he noticed that there are 34 items in the negative declaration that have negative impacts and asked if they would need mitigation measures for all those items. Mr. Tilley said that mitigation measures have been identified for all those impacts listed as "potentially significant".

Commissioner Chua said that she would be focusing on the executive summary on the reasons for staff's denial. Ms. Chua questioned why this project was not turned away if staff knew it was incompatible with the residential uses around the area. Planning and Neighborhood Preservation Director Barone pointed out that staff can not refuse to accept an application nor can they refuse to process one. Ms. Chua commented that parking would be the best use for the vacant lot. Mr. Tilley said that staff believes that it would be possible to develop commercial uses on those sites particularly uses that would take advantage of the direct proximity to the light rail station and not generate a lot of traffic. Ms. Chua commented that one of the reasons for staffs denial is that the building would be close to light rail and bus stations, and questioned if that is not what they would want to achieve. Mr. Tilley noted that the Home Depot project would not support light rail use.

Commissioner Burch asked if the residents of Parc Metropolitan were notified of this project. Mr. Tilley said yes approximately 125 future homeowners of Parc Metropolitan were sent notices.

Commissioner Williams asked if any other complaints have been filed from residents since the last Home Depot meeting. Mr. Tilley said that he is not aware of any complaints from the residents, however, they have recently been made aware by a representative of the community that some of the violations at the site that were previously addressed by the Planning Commission have returned.

Chair Hay said for the public record, it should be known that he and Commissioner Williams met with representatives of the Great Mall to review this project.

Vice Chair Nitafan said that for the public record, he met with the applicant to

discuss the project.

Commissioner Burch said that for the public record, she met with the Great Mall representatives regarding the project.

Lieutenant Graham, Milpitas Police Department, said that the parking problem has been well documented and there would be a potential problem of a backup of traffic on the access road from Main Street. Lt. Graham said that this proposed project would slow the Police Department's response time.

Commissioner Burch asked if the Police Department would anticipate additional criminal activity due to the Home Depot. Lt. Graham said no not due to the Home Depot itself but possibly due to shoplifters or auto thefts.

Commissioner Williams asked if the police staffing level is at its peak on the weekend. Lt. Graham said that there are 4 officers assigned to the mall, 3 on Saturday but 2 don't start until 4:30 PM. Mr. Williams said that observing the existing Home Depot in the afternoon, the parking lot is usually busy and questioned whether a Home Depot at the Great Mall would this put an additional strain on the level of Police service. Lt. Graham said that they would have to take officers off other beats.

Commissioner Sandhu asked if there is any history from the current Home Depot regarding frequent calls due to violations. Lt. Graham said that they have several shoplifting calls.

Tim Ridner, Pyramid Group gave a presentation covering the history of the Great Mall.

Roger LeBlanc, Swerdlow Real Estate Group, gave a presentation on how the project has proceeded to date and what they are looking for in this proposed project.

Commissioner Williams said that the hours of operation hours of delivery where a concern of the residents for the existing Home Depot and pointed out that it's not just the distance from the residents that makes the difference it's also the time of day that certain activities take place. Mr. Le Blanc said not only does a railroad train create noise impacts but there are 17 buses that go down Main Street and their will also be a light rail overhead just 60 feet from Home Depot adding that he would be shocked if noise from Home Depot was louder than that.

Patrick McGoy, Home Depot Representative, said that what they are trying to do is operate a 107,000 sq. ft. business out of a 80,000 sq. ft. building which is difficult to do. Mr. McGoy pointed out that nobody is more concerned about parking then they are and they feel that there is enough parking to satisfy their customers.

Chair Hay asked if they would be closing down the existing Home Depot if this Home Depot is approved. Mr. McGoy said that is what they plan to do but there is

no guarantee. Mr. Hay asked if they are considering reducing the square footage by 14,000 feet. Mr. McGoy said that would not be possible.

Commissioner Chua said that she is concerned about the impact to the residents' around the Home Depot and asked if they have made an effort to contact the Monte Vista residents. Tim Ridner said that one of the conditions being proposed in the alternative recommendation by staff is that Home Depot would provide an available person to attend the meetings at both Parc Metropolitan and Monte Vista.

Commissioner Burch said she is concerned that the Parc Metropolitan residents' view would be impaired. Mr. Ridner said that it is not proposed that the height of this parking deck be greater than the height of the buildings that Selectron has now. Ms. Burch said she would be more inclined to consider a parking structure if it were on the other end of the mall.

Mr. LeBlanc pointed out that the existing store has one or two loading docks and this store would have four loading docks, which would eliminate the problem of trucks having to wait to unload.

Recess

Chair Hay called a 2 minute recess

Tim Ridner, gave a presentation covering issues on traffic circulation, parking, noise, building architecture/site layout, outparcel parking, parking deck, VTA, Midtown goals and approvals requested.

Chair Hay asked what number of stalls are available at the bus transfer facility. Mr. Ridner said that there are 90 stalls available.

Commissioner Chua asked if they could use the remaining outparcels for a deck. Mr. Ridner said that the configuration would not be strong enough to accommodate that and it would be unsightly.

Steve Banell, 2110 Seacliff Drive, said that Home Depot would be a terrible land use for this area and would take away from the downtown atmosphere.

Identified only as **Mike**, currently living at 1063 Morris Avenue, Sunnyvale, said he is a future resident of Parc Metropolitan was appalled when he heard that a Home Depot was being proposed in that area.

Mr. Shi, resident of San Jose, said that he is a future resident of Parc Metropolitan and he believes that this project would impact the quality of life to the residents in the area.

Rich Greene, CALPNP Developer of Parc Metropolitan said that he has concerns about Comet Drive and the would like to see Comet Drive closed off for safety of the homeowners.

Commissioner Burch asked when the application for this project was received.

Mr., Tilley said that the application was first received in April 2000.

Rob Means, 1421 Yellowstone, Mr. Means said that he is here to argue against Home Depot on this particular site for their establishment because that traffic area is miserable now and how can they even think that it wouldn't get worse. The biggest issue is that it may not legally be non conforming but in effect it is functionally non conforming to the surrounding area which also creates a real opportunity cost since we can put in any transit friendly establishment in the future if a Home Depot is not put there. We need to look at this in the long term and keep it transit focused.

Adrian Davis, future tenant of Parc Metropolitan, said that he was upset that he was noticed regarding this project just a little over one week ago and said that the City should let perspective buyers know well in advance about these meetings.

Dave Richerson, 1920 Yosemite Drive, said that it distresses him to have to deal with Swerdlow and Home Depot in the same issue, Home Depot's history has not been glowing and he has a hard time swallowing the idea that they couldn't operate out of a 80,000 sq. ft. box but they can fit into a 110,000 sq. ft. box. Mr. Richerson went on to say that he found quite a few inconsistencies with the Negative Declaration and suggested that a stipulation be given to the Home Depot tenant requesting them to keep their Landess site free of violations for six-months and if they can't do it there they are not going to do it at the Great Mall.

Carmen Montano, Milpitas resident, said that Home Depot is a good business, but this is not a good location for it and it is contrary to the Midtown Plan.

Motion to close the public hearing

M/S: Burch/Nitafan

AYES: 6 (Hay, Nitafan, Burch, Chua, Sandhu, Williams)

ABSTAIN: 1 (Montano)

Commissioner Chua requested that staff address the concerns that were voiced by the residents this evening.

Principal Planner Burkey addressed the question of whether there were any redevelopment incentives to bring Home Depot to this site, noting that there was not. Mr. Burkey addressed the question of the legal timeline for notification of prospective buyers, noting that under these circumstances it was not legally required to notice the prospective buyers at all, instead a courtesy notice was sent out as soon as those names were obtained from Parc Metropolitan. City Attorney Faubion added that the legal requirement for notifying residents is 10 days. Mr. Tilley addressed the question regarding Comet Drive, noting that the issue of keeping Comet Drive open or closing it is still up for debate and would be considered later on the agenda.

Vice Chair Nitafan asked if staff has made any observations regarding skateboarders being an issue at the proposed site. Chair Hay said he often drops

off and picks up his son at Van's Skate Park and has observed that there is not a demand for parking space because many kids are dropped off and picked up.

Chair Hay said it is important for Commissioners to keep an open mind and not to pre judge a project, look at facts and make the best decision they can make. Mr. Hay said that he has spent many hours researching this and most of the issues that he had concerns about have been addressed this evening and the only concern that he still has is the traffic impact.

Commissioner Burch stated that this is like trying to fit a square peg into a round hole and it just doesn't fit, there are too many issues on the Negative Declaration that don't seem to be mitigated to her satisfaction. Ms. Burch said that she feels bad for the new homeowners that don't live there yet and is concerned about the traffic and also has concern about Home Depot's poor history.

Motion to deny of Use permit No. 1555 / "S" Zone Approval and EIA No. 749.

M/S: Burch/Nitafan

AYES: 6 (Hay, Nitafan, Burch, Sandhu, Chua, Williams)

ABSTAIN: 1 (Montano)

Vice Chair Nitafan commented that this is a very good project but it is the wrong location for it and they need to look at the long-term use of this parcel.

Commissioner Sandhu said that the Home Depot is a good project but it is not pedestrian friendly and he is concerned about the traffic and parking impacts.

Commissioner Chua said that her biggest concern is the residents in the area and she is also concerned about additional traffic.

Chair Hay said that with the exception of traffic, he feels really good about this project and questioned what would be put there if not a Home Depot.

4. Compliance with Approved Special Condition

Assistant Planner Tilley presented a review of Great Mall circulation analysis per special condition of theater approval.

Commissioner Sandhu asked if Comet Drive would be closed to the Parc Metropolitan area. Mr. Tilley said that it would be closed to through traffic but Parc Metropolitan residents would still have access.

Tim Ridner, Pyramid Group, 17367 Monterey Road, Morgan Hill, CA, commented that the Comet Drive issue has been before the Planning Commission and the City Council in the past and it was determined that no decision would be made until more data was made available.

Rich Greene, CALPNP, said that the homeowners in the area would like Comet Drive closed off to through traffic for safety reasons.

Chair Hay suggested for this to be continued until they know what the Home Depot's final outcome is. Mr. Tilley commented that there are some recommendations for the existing mall circulation, not including the Home Depot, and pointed out that this particular condition is tied to the final occupancy of the movie theaters.

Chair Hay commented that if the Home Depot project is appealed within 12 days it doesn't mean that it would be heard in 12 days. Director Barone said that is correct and the applicant would be working to bring this to Council by August 15, 2000.

Commissioner Williams suggested that they do a conditional closure with a review in four months to collect data to determine if this should be ongoing and permanent. Mr. Tilley said it would depend on whether the Planning Commission is comfortable with that time frame and asked Mr. Williams if it was his intent to allow the theaters to gain occupancy prior to the ultimate resolution of this document. Mr. Williams said he did not want to create a barrier to theater occupancy. Director Barone said that it is staff's intent that the circulation report has enough information in it to judge whether Comet Drive should be closed.

Vice Chair Nitafan said that he has enough information now and the mechanism that he would like would be a two-way closure, not a one way closure.

Chair Hay referred to the recommendations that are in the report relating to changes in circulation if Home Depot is approved and asked if those recommendations are included in the Home Depot's package of conditions. Mr. Tilley said that they are.

Commissioner Montano questioned why they want to close Comet Drive if they are so concerned with traffic impacts.

Commissioner Chua said that the concern she has is that they are currently under construction and closing Comet Drive would slow down the construction.

Rich Greene said that the timing would be perfect right now because it would be closed down for about 3 or 4 weeks due to construction.

Chair Hay questioned whether they could approve the report and continue the issue of Comet. Ms. Barone said yes, with a condition that Comet Drive would be reevaluated and brought back.

Dave Richerson, 1920 Yosemite Drive said that he doesn't want Comet Drive to become a problem for the residents.

Motion to approve the circulation analysis of the Great Mall with recommendations 1, 2 and 3 and to postpone Comet Drive until 6 months after theaters open.

M/S: Chua/Williams

AYES: 7

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:40 PM to the next regular meeting of August 9, 2000.

Respectfully submitted,

STEVE BURKEY, Secretary

KAREN RAMSAY, Recording Secretary

[top](#)

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

July 12, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Tilley, Rush, Whitnell, Duncan, Whales, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, said that he wanted to publicly acknowledge that the City Council did revoke the conditional Use Permit on the Friendly Transportation.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of June 28, 2000.

Motion to approve the minutes of June 28, 2000 as submitted.

M/S: Nitafan/Chua

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey pointed out to the Commission that they have before them a

revised draft copy of the Streetscape Master Plan and reminded them that they would be reviewing it at the next meeting of July 26, 2000.

Mr. Burkey addressed the concern that Chair Hay had regarding the illegal sign that was posted at Abel Plaza shopping center saying that the property owner was notified and the sign has been removed. Mr. Burkey noted that Commissioner Nitafan also had a concern regarding a need for a sign along Abel Street to direct traffic onto Main Street and said that the Milpitas Traffic Engineer has informed staff that there is already a sign that directs traffic from Abel Street onto Main Street.

Commissioner Montano asked Mr. Burkey the status of her concern regarding the Great Mall sign. Mr. Burkey replied that he has not received input on that issue and would get back to the Commission on the status of that.

Commissioner Chua announced that the Flood Plain Management Committee met for the second time and stated that based on the efforts of the Engineering Division and the Santa Clara Valley Water District approximately 500 residents would be removed from the flood zone area.

Ms. Chua said that one of the major topics at the Flood Plain Management Committee meeting was the positive feedback from the survey that was done by Engineering staff and thanked them for their efforts.

Commissioner Sandhu announced that there was no CAC meeting this week.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Montano

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Chua and Vice Chair Nitafan abstained from voting on Consent Item No. 6 due to a conflict of interest.

Chair Hay opened the public hearing on item nos. 3, 4, 5 and 6.

Motion to close the public hearing on item nos. 3, 4 and 6.

M/S: Nitafan/Chua

AYES: 7 [items 3 and 4]

AYES: 5 [item 6] (Hay, Burch, Montano, Sandhu, Williams)

ABSTAIN: 2 [item 6] (Nitafan, Chua)

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

2. **USE PERMIT NO. 1556:** Request to install a 43 foot tall monopole with 3 telecommunication antennas and an equipment shelter at 1331 East Calaveras Boulevard (Ayer Education Center). Applicant: Sprint PCS. Project Planner: David Tilley. **(Public Hearing open and continued to the meeting of August 9, 2000).**
3. **USE PERMIT NO. 1565:** A request to install a +/- 7 foot tall freestanding sign for Linear Technology at 275 S. Hillview Drive. Applicant: Sign Classics, Inc. Project Planner: Jonelyn. **(Approve subject to findings with (6) Special Conditions).**
4. **USE PERMIT NO. 1562 & "S" ZONE APPROVAL-AMENDMENT:** A request to install 3 panel antennas on the existing rooftop equipment screen and placement of rooftop equipment shelter located at 380 Fairview Way. Applicant: Sprint PCS. Project Planners: David Tilley & Kim Duncan. **(Approve subject to findings with (7) Special Conditions).**
5. **S" ZONE APPROVAL:** A request to develop an industrial/R&D campus near the intersection of Yosemite Drive with Sinclair Frontage Road with six buildings totaling approximately 163,000 square feet of gross floor area, demolition of existing industrial buildings, and related site improvements. Applicant: WP Investments. Project Planner: David Tilley. **(Public Hearing open and continue to the July 26, 2000 meeting).**
6. **HILLSIDE Site & Architectural APPROVAL-Amendment:** A request to amend the Hillside site and architectural approval at 350 Vista Ridge Drive to allow construction of a 6 car detached garage; conversion of existing garage and enclosure of a deck to create an additional living space. Applicant: Donald Sollars. Project Planner: Therese Schmidt. **(Approve subject to findings with (4) Special Conditions).**

M/S: Nitafan/Montano

AYES: 7 [items 3 and 4]

AYES: 5 [item 6] (Hay, Burch, Montano, Sandhu, Williams)

ABSTAIN: 2 [item 6] (Nitafan, Chua)

PUBLIC HEARING

Chair Hay stated that before they move forward with the Midtown Plan presentation some legal issues need to be discussed regarding what the Planning Commission's options are.

City Attorney Whitnell stated that they need to discuss the potential conflict of interest

of three Planning Commissioners with respect to the decisions that have to be made on the Midtown Specific Plan noting that three members of the Commission are real estate professionals and there are issues regarding real estate professionals participating in making decisions which may have a financial effect on their practice. Mr. Whitnell said that there are also three commission members that have personal residences within 2500 feet of the Midtown. Mr. Whitnell noted that the two alternatives for selecting a quorum, is to 1) bifurcate the study area into a northern and southern section, and the Commissioners with no conflict in "Area A" could participate in "Area A" and the Commissioners with no conflict in "Area B" could participate in "Area B" or 2) Chair Hay can participate and have other Commissioners draw straws to for a quorum of four.

Vice Chair Nitaфан said he didn't see an advantage of dividing the Midtown into two areas since they would all be voting on the Midtown as a whole. Mr. Whitnell explained that this alternative is to allow those Commissioners to participate whom otherwise might not be chosen through a random selection process. Mr. Nitaфан said that he would prefer one whole body to participate in the deliberation. Commissioner Burch suggested that a third alternative might be to send the query to the FPPC and get their thoughts on the issue.

Commissioner Chua asked if the Commission would be exposed to ramifications after the fact. Mr. Whitnell replied that if a Commissioner has a conflict they must recuse themselves but under the rule of necessity if they are randomly selected and they can not fully participate there would be no further legal ramifications.

Commissioner Sandhu asked if there has been a similar situation as this one before. Chair Hay stated that when the Vision Statement on the Midtown Plan came to the Commission they drew straws and addressed the Vision Statement as a whole, which historically has been the method used by the Planning Commission.

Chair Hay asked each Commissioner to chose which alternative they would like to use.

Commissioner Williams stated that he would be agreeable to alternative 2, which would be to draw straws and form a quorum. Commissioner Chua said that she would also agree to alternative 2. Commissioner Sandhu said that he is in support of alternative 2. Commissioner Montano said that she would like to go with alternative 3, which would be to first get FPPC's thoughts on the issues. Commissioner Burch said that she would like to use alternative 3 and added that she lives in the area and would like the opportunity to contribute input. Vice Chair Nitaфан said that he supports alternative 2. Chair Hay said that he is supportive of alternative 2.

Motion to select alternative no. 2.

M/S: Williams/Chua

Dave Richerson stated that he is not convinced that this item is so urgent that it must be decided by a quorum tonight and asked why they didn't get action from the FPPC when this was started last year.

Bob Olinger, Main Street property owner said that maybe this should have been done

along time ago, however every day costs money and it is not fair to our community and the property owners who want to move forward with this and not delay any longer.

Ed Roush, said that he doesn't see any reason why the Commission couldn't take public input tonight and wait for the City to get an answer for the most proper way to proceed.

Mike Sweatt, Pacific Tire Outlet on Main Street, said that they have been in the process of trying to get something built on that property for one year and have been waiting for the Planning Commission and the City Council to come up with the specific plan and it is costing him a lot of money in interest every month to completed. Mr. Sweatt added that they would like to see the specific plan process get completed so they can go to their architects and to the Planning Commission and get approval to build something on Main Street.

Chair Hay pointed out that what they are dealing with this evening is the conceptual review and recommendation, they are not changing the General Plan or rezoning and they are not dealing with any real specific issues.

AYES: 6 (Hay, Nitafan, Montano, Sandhu, Chua, Williams)

NOES: 1 (Burch)

Chair Hay asked staff to draw Commissioners names out of a hat.

The names drawn were Commissioner Burch Chua and Williams.

City Attorney Whitnell stated that under State law when they invoke the rule of necessity the Commissioners that are participating that have a conflict are required to state on the record the nature of their financial interest.

Commissioner Williams stated that his potential conflict is that his primary residence is within 2500 feet of the project. Commissioner Burch stated that her potential conflict is that her primary residence is within 2500 feet of the project. Commissioner Chua stated that her potential conflict is that she is a real estate professional and she sells residential homes.

Midtown Specific Plan

Project Planner Rush presented a proposal to review conceptual planning alternatives for the Midtown Plan.

Carolyn Radisch, of EDAW gave a presentation on the land use concepts for the Midtown Specific Plan.

Commissioner Chua referred to the base line being approximately 110,000 square feet asked how that was determined. Ms. Radisch said that what the current general plan and zoning would allow on those sites is what they projected for that scenario.

Chair Hay asked if Carlo Street would be closed. Ms. Radisch said a portion of Carlo Street would be closed to make a better free right turn movement from Abel on to

Calaveras.

Mr. Hay asked Ms. Radisch to expand on the concept of OPA's. Ms. Radisch explained that an OPA is an Owner Participation Agreement which is a tool that is used in a redevelopment district where an agreement is negotiated with the property owners and the City on the terms of redeveloping a piece of property.

Commissioner Burch asked the location of the six-acre park. Ms. Radisch said that it is shown going along the Hetch Hetchy right-of-way trail and through the railyard property.

Ms. Burch asked if the trip generation noted in the report is per day. Ms. Radisch said yes. Ms. Burch asked if there is a demand for the different type of land uses. Ms. Radisch said yes there is a demand for different types of land uses noted in the plan alternatives. Ms. Burch asked what kind of retail would be generated. Ms. Radisch said it would depend on the number of residences that would be built in the area.

Ms. Burch asked if there are any foreseeable dangers to the businesses that exist on Main Street because of the plans that are being considered. Ms. Radisch replied that the plan has no power to change anything in the area, it is a blueprint for the future, noting that the plan primarily effects new development and that existing businesses would be affected by changes that occur relative to new development, which would happen regardless of the adoption of this plan.

Ms. Burch asked how the existing businesses would be affected. Ms. Radisch said that one positive benefit is that there would be additional residential development in the area, which would bring more support for retail developments. Ms. Burch asked if there would be any negative impacts on the businesses. Ms. Radisch said no.

Director of Planning and Neighborhood Preservation Barone stated that depending on the final plan that gets adopted, the potential exists that some businesses could be considered legal nonconforming. Ms. Barone explained that any business that currently exist legally in the Midtown area would continue to do so even if the new plan is adopted. As a legal nonconforming use the business could stay there but could be an impact to a business in that regard.

Commissioner Chua asked for clarification on the staff recommendation. Ms. Radisch said that their recommendation is primarily "alternative one". Though all of the alternatives look at a mixed-use district along the Main Street.

Chair Hay asked if there is a possibility of a BART station being placed north of Calaveras. Ms. Barone said that in the current BART studies the station at Capital and Montague is in the first year of what is being proposed and there alternative locations being studied, and the Calaveras station is one of the alternatives. Calaveras station may not be included, but it would be evaluated further and one of the opportunities they have with the Midtown Plan coming at this time is to make a clear statement to the development of BART.

Commissioner Williams asked if the plan addresses the need for a public meeting place.

Ms. Barone pointed out that the Fire Station has a public meeting room and noted that this plan does not identify additional areas where there would be public meeting space.

Chair Hay opened the public hearing.

Bruce Pallack, owner of Garbe's Towing, 130 Winsor Street, said that this plan seems to affect his business as well as many other service oriented and light industrial businesses by making them nonconforming. Mr. Pallack pointed out that there is nothing in this plan that indicates protection of these businesses.

Bob Blake, owner of Cal-State Muffler, 312 South Main Street, #3, said that twenty years ago the City wanted businesses downtown and he has provided a service to the Community and to City of Milpitas for twenty years and now with this new plan he sees the end of the road for himself and said he is scared.

Ms. Radisch clarified that when they talk about redevelopment, they are not talking about a City or Redevelopment Agency going in and taking out something or redeveloping something, they are talking about property owners redeveloping property that has already been developed in the area.

John Jay, owner of 542 S. Main Street, pointed out that when asked if this plan would have an impact on the businesses on Main Street the answer was no, but it took twenty-three minutes for the Planning Commission to decide if it would impact them.

John Wust, 305 Heath, said that he doesn't see much on the map for public property and asked if there are any parcels available that are 3 acres or more. Chair Hay said that staff would address that question later in the meeting.

Dave Leone, representing the Frost Family Trust, said that he owns property on Montague Expressway in Milpitas and has had a businesses there for about 40 years and they are interested in developing the property. Mr. Leone said that they are supportive of the plan that is recommended for the development of the central core and are in favor of developing higher density residential.

George Donovan, representing the property owners of the Abel property on Main Street and Great Mall Parkway and also Serra Shopping Center. Mr. Donovan referring to Serra Shopping Center, asked if assuming there is acceptance by the Planning Commission of an office designation, would it involve any zoning change for their property. Chair Hay said that would be addressed after the public hearing.

Rob Means, 1421 Yellowstone Avenue, said that he supports the current proposed plan. The Bicycle Transportation Advisory Committee has not had the opportunity to view this plan and that all four of the proposed plans have all changed the current bicycle plan from Main Street over to Abel Street. Mr. Means recommended keeping the bicycle lanes on Main Street.

Edd Rauch, owner of North Valley Foreign Auto Parts, 260 S. Main Street, said that that automotive businesses on Main Street can't afford to move any place else and that the businesses would be gone if they turn it into residential.

Motion to close the public hearing.

M/S: Williams/Chua

AYES: 4

ABSTAIN: 3

Ms. Rush said that Mr. Wust had a question regarding public areas and the Fire Station was identified as having a meeting room and that there is the potential for additional lands, which would be looked at later on. Ms. Barone pointed out that the Senior Center is a part of the Midtown Plan which has a public meeting place and the DeVrise house is across the street which is a City owned parcel.

Ms. Rush said with regards to the Serra Center, the property is currently zoned C2 which allows office uses as a permitted use by right and they are not looking at changing the use at this time.

Commissioner Chua pointed out some other questions that need to be addressed, such as traffic issues and businesses being displaced. Ms. Rush replied that they did initial estimates of the trip generation from the key sites. When going from a vacant site to a developed one there will be new trips. Ms. Chua said that the reason she was favoring the high-density development because she thought it would help the businesses on Main Street but now she's not sure that it would. Ms. Radisch said that new residential development would help to make the retail businesses on Main Street more vital.

Chair Hay commented that if they were to go ahead with the rezoning in that area it would create an opportunity for the property owners. Mr. Hay asked what type of uses would be included in Highway Services. Ms. Radisch said that it would be anything from big box retail to auto dealerships. Mr. Hay asked if 60 units per acre is considered high. Ms. Radisch said that 60 units per acre are higher than what is currently in Milpitas, but there are projects in surrounding communities that are higher. Mr. Hay asked what the current maximum density level is for Milpitas. Ms. Radisch said that it is 40 units per acre.

Commissioner Williams said that now they are looking at development not only based on what a consultant has provided but also based on community input and they want to make sure that they are protecting everyone. Mr. Williams said that they can't control the landlords' decisions regarding what they want to do with the property and he is concerned about statements that have been made here tonight. Lastly, Mr. Williams said that the Subcommittee is always trying to make sure that businesses will continue to be operating for a long time to come.

Commissioner Burch asked if the decision the Planning Commission makes tonight is going to seal the fate for the business owners on Main Street. Ms. Barone replied even if the existing businesses are considered conforming it is a valid concern that if you start bringing in residential. For example the auto repair might open at 6:00 a.m., but then you place a multi-family residential unit right next to them the City may start getting

complaints. Both may be legal but one can have an impact on the other. If the Commission and the Council support the mixed use concept then more specific studies will be done on what is meant by mixed use, what are the potential conflicts, have they created any legal non conforming businesses and if so where are they. If they propose general plans and zone changes that allow for a use that is more profitable to the property owners, that might encourage them to terminate that lease and look for something different when the lease comes up. Lastly, Ms. Barone stated that they are looking to get direction from the Planning Commission to take to the City Council.

Ms. Burch said she has wanted to see Main Street flourish for years, so she is happy that it is being looked at, however, she is uncomfortable that they might be putting the cart before the horse by not finding out the specific impacts of some things that are really important, such as what would happen to the businesses on Main Street and how can they keep the impacts to a minimum. Ms. Burch said she is very concerned about the traffic and adding one more project of any type would make it unbearable down there. We need to look at this with awareness because she is concerned that what they may be creating for the future will end up being not what they wanted.

Chair Hay said that he feels they have an urgent housing need, not just in the City of Milpitas but throughout the County of Santa Clara. Therefore, it makes good sense to bring the higher density housing close to traffic and to bring the housing closer to the jobs. If people can get from point "A" to point "B" by using transit, that is the way to go. Mr. Hay stated that throughout the hearings it's been clear that the City of Milpitas does not have a gathering place and that Ms. Burch's concerns are legitimate and are the kinds that would be addressed in the EIR process. There will be in depth studies on all of those areas. Mr. Hay commented Commissioner Williams, Vice Mayor Lawson, Councilwomen Dixon and he are on the Midtown Advisory Committee and their input has been process oriented and he is very supportive of the recommendation that is being brought forth this evening.

Commissioner Chua stated that she wholeheartedly supports the plan and, like Ms. Burch, she is uncomfortable with the fact that they are not addressing the issues of the existing businesses and requested that they specifically address this issue in the plan. Ms. Barone said that those issues will be addressed once they have a direction, if the Commission and the Council are interested in pursuing the concept that has been presented then the next step would be to look in detail at all these issues, such as how does the concept of mixed use impact the businesses. Ms. Barone explained that by approving this plan the Commission is telling staff that they want more detail on mixed use, by not approving the plan the Commission needs to tell staff what it is they want studied if it is not mixed use. Staff is looking for direction.

Ms. Chua asked if they have plans for the existing businesses if they can't do their business. Ms. Barone said that the Council is very interested in insuring that existing businesses are not forced out. Ms. Chua asked where is that indicated on this plan. Ms. Barone explained that if the Commission would like it specified more clearly then they would need to recommend specific actions to the Council.

Chair Hay said that he has some of the same discomfort as Ms. Chua and Ms. Burch and said that this needs to be answered as part of the EIR, they can't direct staff to mitigate a particular problem because the problem has to be defined by the EIR and the mitigation measures that go along with that and there can be all kinds mitigation, including not doing the project at all. Ms. Barone said that, in terms of doing the analysis for the environmental report they need to look at the "no project" alternative which means that development occurs over time in this area as currently general planned and zoned. Ms. Chua said that she does support the Midtown Specific Plan but somehow there is something missing and requested information on what other cities have done in similar situations for their existing businesses.

Motion to except the recommendation of staff and the Subcommittee with the understanding that the EIR will address the concerns that have been identified.

M/S: Williams/Hay

AYES: 2 (Williams, Hay)

NOES: 2 (Burch, Chua)

Motion fails.

Motion to direct staff to answer questions regarding the specific effects of the plan on businesses on Main Street and to find out what other cities have done for traffic and circulation management and recommend to continue to the next meeting of July 26, 2000.

M/S: Chua/Buch

AYES: 2 (Burch, Chua)

NOES: 2 (Williams, Hay)

Motion fails.

City Attorney Whitnell stated that when the Planning Commission is unable to reach a majority vote then the matter would go to the City Council without a recommendation from the Planning Commission. Mr. Whitnell said that the Planning Commission may want to provide additional information to staff as individual Commissioners as to what they wish to communicate to the City Council or they can rely on the minutes from this meeting to be transmitted to the Council with any clarifying memorandum.

Recess

Chair Hay called a 15 minute recess at 10:00 PM

NEW BUSINESS

7. "S" Zone Approval Amendment

Project Planner Burkey presented a proposal to remove 19 trees at the location of 1000

Gibraltar Drive.

Chair Hay asked if the condition requires them to replace the five trees that are being removed. Mr. Burkey said yes.

Commissioner Montano asked what the tree ordinance requires. Mr. Burkey said that the ordinance states that any tree that is a protected tree or is a tree that is required as a landscaping plan has to have Planning Commission approval to be removed. A protected tree is a tree with a 37" or greater circumference. Ms. Montano asked how old trees have to be to be protected. Mr. Burkey said that varies with the tree species but these trees are about twenty years old.

Vice Chair Nitafan asked if there is a second opinion from an outside source. Mr. Burkey said they have the opinion of the City Arborist, whom they consider to be impartial. Mr. Nitafan said that he agrees with staff's recommendation but would like to add to the creditability.

Ms. Barone pointed out that the applicant is not present tonight and doesn't appear to object to the recommendations. Mr. Nitafan asked if the applicant agreed to the staff recommendation. Mr. Burkey said that the applicant was contacted with regards to this and he never replied to the various messages that were left for him.

Commissioner Williams said that there is a large oak tree on Milpitas Blvd. near Gibraltar whose roots and a limb were hacked off and asked if this oak tree would be preserved. Mr. Burkey said yes, steps would be taken to preserve that tree.

Dave Richerson, 1920 Yosemite Drive, stated that the trees being removed should be checked for nests and if there are nests in the trees they should be checked for eggs or hatchlings before eggs or after hatchlings.

Mr. Hay pointed out that staff is adding to condition no. 3 to include a provision for a protection of birds.

Motion to approve "S" Zone Approval Amendment subject to findings with (6) Special Conditions

M/S: Nitafan/Burch

AYES: 7

8. Subcommittee Selection

Chair Hay volunteered as Subcommittee member one.

Commissioner Burch was chosen for Subcommittee member two.

Commissioner Williams was chosen as alternate Subcommittee member.

9. Selection of Planning Commission Officers

Chair Hay opened nominations for Planning Commission Chair.

Commissioner Burch nominated Paul Hay for Chair.

Paul Hay was elected Planning Commission Chair.

Chair Hay opened nominations for Vice Chair.

Commissioner Burch nominated Cliff Williams.

Commissioner Chua nominated Dem Nitafan.

Dem Nitafan was elected Planning Commission Vice Chair.

Chair Hay nominated Steve Burkey for Planning Commission Secretary.

Steve Burkey was elected Planning Commission Secretary.

10. Set Worksession for July 25, 2000 Meeting

Principle Planner Burkey presented a proposal for a work session on July 26, 2000 to review conceptual plans for the proposed Veritas Development on 65 acres on the west side of McCarthy Blvd.

Chair Hay asked if a project of this size would go on to City Council. Mr. Burkey said no, all that was required was an "S" Zone Approval.

Mr. Burkey explained that they would be interested in having a work session scheduled at 6:00 PM, before the regularly scheduled meeting at 7:00 PM. This would be a discussion only meeting, no action on the project would be taken.

It was agreed that there would be an early work session that would begin at 6:00 PM on July 26, 2000.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:50 PM to the next regular meeting of July 26, 2000.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

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**CITY OF MILPITAS
APPROVED
PLANNING COMMISSION MINUTES**

June 28, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and Vice Chair Nitafan led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Tilley, Rush, Faubion, Ramsay, Schmidt

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of May 24, 2000 and June 14, 2000.

Principal Planner Burkey stated that there was an additional paragraph added on page 7 of the May 24 2000 minutes in response to the Planning Commissions request for more detailed minutes on the paratransit and on the June 14, 2000 minutes a correction was made on pages 5 last paragraph and page 6, first paragraph, to correct the last sentence of the amended motions to amend Special Condition No. 3 to state that the Planning Commission considers the window treatment to be signage.

Commissioner Chua said that on page 6, paragraph 10 she would like her comment to state that the Commission should move forward with the revocation hearing, instead of with the project.

It was agreed that where the minutes refer to the "project" would be change to "revocation hearing".

Chair Hay requested that the amended minutes be submitted in the Council's meeting packets for their next meeting.

City Attorney Faubion suggested that the sentence on page 6, paragraph 2, be changed to "Project Planner Rush presented the staff report on revocation of Use Permit No. 1511" instead of Project Planner Rush presented a proposal to revoke Use Permit No. 1511". Ms. Faubion also suggested that the correction be made on page 7, paragraph 1

changing the words "the letter speak for the record" to the applicants letter speak for the record.

Motion to approve the minutes of May 24, 2000 and June 14, 2000 as amended.

M/S:Nitafan/Montano

AYES: 7

ANNOUNCEMENTS

Commissioner Burch said that she noticed that a house on Washington Street is having work done and she asked staff to follow-up and report back to her on how that came about.

Vice Chair Nitafan suggest that a sign be posted that directs the public from Abel Street to Main Street because people don't realize that Marylinn Drive turns into Main Street and it would help minimize the back up of vehicles on Abel Street.

Commissioner Montano said that the paint on the Great Mall freeway sign is peeling and asked staff to take a look at it.

Chair Hay said that there is a large real estate "space available" sign on the grass in front of Abel Plaza with another sign nailed to it advertising events at the New Park Mall and asked staff to take steps to have the New Park Mall advertising removed.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Principal Planner Burkey said that the applicant for agenda item no. 2, Use Permit No. 1564 A, B, C and "S" Zone Approval, has asked to have their application withdrawn. Mr. Burkey asked that agenda item no. 4 be added to the consent calendar and continued to the July 12, 2000 meeting.

As there were no objections, Chair Hay ordered the agenda approved as amended.

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Mr. Burkey added item no. 4 to Consent Calendar.

Chair Hay opened the public hearing on consent item nos. 1,2, & 4.

Motion to close the public hearing on consent item nos. 1 and 2.

M/S: Nitafan/Burch

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 1. USE PERMIT NO. 1553:** A request to install telecommunications antennas and

equipment enclosure at 1000 Jacklin Road. Applicant: Nextel Communications. Project Planners: Annelise Judd, 586-3273 and Kim Duncan, 586-3280. **(Approved subject to Findings with (7) Special Conditions).**

2. USE PERMIT NO. 1564 A, B, C, AND "S" ZONE

APPROVAL-AMENDMENT: A request to allow a temporary office trailer and fencing, plus permanent paving at 755 Yosemite Drive. Applicant: Headway Technologies. Project Planner: Annelise Judd, 586-3273. **(Note receipt and file).**

4. USE PERMIT NO. 1556: Request to install a 43 foot tall monopole with three telecommunication antennas and equipment shelter at 1331 East Calaveras Boulevard (Ayer Education Center). Applicant: Sprint PCS. Project Planner: David Tilley, 586-3278. **(Continue to the July 12, 2000 meeting).**

Staff Presentation

Mr. Burkey noted that the Streetscape Master Plan would be continued to the July 26, 2000 Planning Commission meeting.

3. PUD No. 23-Amendment

Project Planner Schmidt presented a request to amend the "Calaveras Ridge Estates" PUD (an existing 17 lot Hillside subdivision with 4 vacant lots, located at the south end of Calaveras Ridge Road) to specify a two-story building height, in lieu of the single-story limit required by the current Hillside Ordinance.

Vice Chair Nitafan and Commissioner Chua abstained from voting on PUD No. 23-Amendment due to a conflict of interest.

Commissioner Williams asked if there were any concerns expressed by the residents as far as the homeowners association. Ms. Schmidt said there were no concerns that she is aware of.

Dii Lewis, 522 48th Avenue, San Francisco, CA stated that he was representing the homeowners association and that the homeowners association is aware of the sensitivity of the issue. Mr. Lewis said that the single story home that is already in existence is at one of the highest points in the park and the height of that building is 25-feet adding that a seventeen-story home would not fit in very well. Mr. Lewis said they felt a 27-foot high building was a compromise and wouldn't create any adverse impacts.

Commissioner Burch asked how the 25-foot single story home was measured and asked if it conformed to the ordinance at the time it was built. Ms. Schmidt replied that it was approved prior to the Hillside Ordinance so they could have gone to a 27-foot height but she didn't know how it was measured to arrive at the 25-feet.

Commissioner Williams asked what would be the proposed size for lots 10, 11 and 12. Mr. Lewis said that they have not invested any money to develop house

plans yet.

Peter Vavaroutsos, 3441 Cedardale Drive San Jose, CA 95148, stated that he is the owner of lot no. 10 and that a home there would be on 4000 to 5000 sq. ft. in size

Margaret Kruse, 640 Evans Road, said she lives below that hill and when it rains water pours down that hill and she is concerned that part of the hill may come down and asked what can be done to stop the water from coming down on her home. Ms. Kruse said that she would like this project to be denied. Chair Hay said that is a legitimate concern that needs to be addressed and he would refer that question to staff.

Mr. Burkey stated that the drainage pattern of the subdivision was studied and approved by the Public Works and Engineering Department. City staff would analyze drainage of the site.

Commissioner Sandhu asked if the Hillside Ordinance applied only to new construction. Mr. Burkey explained that all new projects that have not received approvals would be subject to the new ordinance. Changes in an ordinance affect all properties unless they have a specific development standard that would supercede it.

Motion to close the public hearing.

M/S: Burch/Williams

AYES: 5 (Hay, Burch, Montano, Sandhu, Williams)

ABSTAIN: 2 (Nitafan, Chua)

Motion to recommend denial to the City Council.

M/S: Burch/Montano

Chair Hay said that he is concerned that there are legal issues relating to the PUD and Zoning Ordinance that would impact the PUD and asked for the opinion of City Attorney Faubion. City Attorney Faubion replied that it may be a matter of interpretation and explained that the purpose of the PUD was to vary zoning ordinance provisions. The purpose of the district is to allow some variation for a particular purpose that should be articulated when it is approved. The Hillside district makes things more complicated because the height regulations say that under no circumstances would the height be more than 17 feet. Lastly, Ms. Faubion said that it is up to the City to determine the relationship between these various regulations.

Chair Hay said he has always been a strong supporter of the Hillside Ordinance and stated that if the Planning Commission were to take action to recommend to the City Council to allow height beyond 17-feet it would weaken the Hillside Ordinance. Mr. Hay said that he is in support of the motion to recommend denial to the City Council.

Commissioner Sandhu said that he is also a supporter of the Hillside Ordinance, but in this case there are owners that bought their lots at the same time and they are not getting the same advantage that other people have gotten, therefore, he would not support the motion to recommend denial.

Commissioner Montano said that her concern is that they would set a precedent if they were to approve this project therefore she concurs with the motion to recommend denial to the City Council.

AYES: 4 (Hay, Burch, Montano, Williams)

NOES: 1 (Sandhu)

ABSTAIN: 2 (Nitafan, Chua)

New Business

5. Status Report on Building Permits & Construction Plans for Campbell's Corners

Assistant Planner Tilley presented a status report on building permits and construction plans for Campbell's Corners located at 167 South Main Street.

Chair Hay commented that the building has been partially demolished and asked if Mr. Hassan has a demolition permit. Mr. Tilley replied that Mr. Hassan did receive a demolition permit for that work to be done.

Commissioner Burch said that she was hoping for a more definitive answer noting that if the Planning Commission does nothing the applicant has until August 4, 2001 to let the building sit. Mr. Tilley said that is correct. Ms. Burch asked if the eminent domain could be used to enforce that action be taken so that the building doesn't collapse in the meantime. City Attorney Faubion stated that the eminent domain law would not allow that type of action. Ms. Faubion pointed out that subject site is private property and enforcement options are limited. Ms. Burch said that she wants to see something done in the next couple months and added that she is not willing to see that building collapse.

Vice Chair Nitafan asked what is holding up the progress. Mr. Tilley said Mr. Hassan explained to him that the prior owner of the building recently passed away and there are some probate issues and escrow issues that are holding up things. Mr. Tilley said that Mr. Hassan hasn't picked up his foundation permit yet but said that he is suppose to do so this week. Mr. Nitafan asked if there are any fees associated with the foundation permit. Mr. Tilley said yes there are fees.

Commissioner Williams asked if this project has the longest record for waiting to be implemented. Mr. Tilley said he doesn't know. Mr. Burkey pointed out that this is a very unique project as there haven't been many old buildings restored in Milpitas.

Commissioner Williams said that he would like it to be known that the applicant

is certainly pressing his patience with this project.

Commissioner Montano asked why the applicant didn't pick-up his foundation permit when he met with Mr. Tilley two days ago. Mr. Tilley said that the foundation permit was approved on April 7, 2000 so the only remaining issue would be to pay the sewer connection fees to release the foundation permit. Ms. Montano voiced her concern that there hasn't been any action taken.

Commissioner Chua thanked Mr. Tilley for following up on this project.

Chair Hay said that he has no more patience and for the City to bend to accommodate Mr. Hassan seems pointless. Mr. Hay asked that with the Neighborhood Beautification Ordinance, what can be done to get some minimal cleanup done and get rid of some of the graffiti. Mr. Tilley pointed out that staff has already directed Mr. Hassan to do some clean-up, which he has done, and staff is looking into what else can be done through the Neighborhood Beautification Ordinance.

Commissioner Sandhu asked if it is appropriate for the Commissioners to talk with the applicants regarding projects. City Attorney Faubion said that there is nothing to stop one individual from talking to another, however, it is important to not represent it as a consensus or action from the Planning Commission.

Vice Chair Nitafan asked at what point would the City step in if this turned out to be an abandoned property. Ms. Faubion said that would depend on the results of the abandonment or any kind of neglect.

Commissioner Chua said that she does not agree to using any kind of eminent domain because the City has ordinances that can be used to address these issues.

Chair Hay said that he would like the Neighborhood Beautification staff to follow-up in getting the graffiti cleaned-up and see what can be done to keep the building from falling down.

Motion for the Planning Commission to direct staff to take the necessary action as addressed by the ordinance to cleanup the graffiti and to secure the structure of the building so that it will not fall down and to see what other steps the City can take.

M/S: Burch/Montano

AYES: 7

Dave Richerson, 1920 Yosemite Drive said that no one wants to see this building disappear, but he would hate to see someone get preferential treatment just because they own a piece of historical property and the City doesn't want to lose it.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:36 PM to the next regular meeting of July 12, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

[top](#)

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

June 14, 2000

PLEDGE OF ALLEGIANCE

Vice Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Chair Hay arrived at 7:02 P.M.

ROLL CALL

Present: Hay, Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Tilley, Rush, Schmidt, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Chair Hay welcomed Thomas Wilson, new Milpitas City Manager.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of May 24, 2000.

Principal Planner Burkey made a correction on page 1 saying that it was Commissioner Montano, not Commissioner Chua that was appointed to the CAC for Santa Clara County Open Space Authority.

Chair Hay requested that a section of the minutes for Use Permit 1511 Violations be rewritten and resubmitted verbatim for the public record. Minutes were referred back to staff.

ANNOUNCEMENTS

Principal Planner Burkey introduced and welcomed new Contract Planner Therese Schmidt.

Commissioner Sandhu stated that on more than one occasion while walking on

Calaveras Boulevard, there have been people making derogatory remarks to him and he would like the Milpitas Police Department to give some attention to these types of problems and issues.

Mr. Burkey said that staff would inform the police of the situation.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Commissioner Burch stated that at the last Planning Commission meeting she had requested and updated report on Campbell's Corner and she has not heard anything back. Mr. Burkey said that he would provide the Planning Commission with an update at their next meeting.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Mr. Burkey requested that agenda item no. 3, Use Permit No. 1556 be added to the consent calendar as the applicant has requested continuance to June 28, 2000.

Chair Hay opened the public hearing on consent items 3, 4, 5, 6 and 7

Motion to close the public hearing on consent items 4, 5, and 6.

M/S: Nitafan/Williams

AYES: 7

- 3. USE PERMIT NO. 1556:** Request to install a 43 foot tall monopole with three telecommunication antennas and equipment shelter at 1331 East Calaveras Boulevard (Ayer Education Center). Applicant: Sprint PCS. Project Planner: David Tilley, 586-3278. **(Continue to June 28, 2000 meeting).**
- 4. USE PERMIT NO. 1292-AMENDMENT:** Request to add one rentable room and incorporate various floor plan changes for Homestead Village Building "C", at 330 Cypress Drive. Applicant: Homestead Village, Inc. Project Planner: Annelise Judd, 586-3273. **(Approved subject to findings with (3) special conditions).**
- 5. USE PERMIT NO. 1558 & "S" ZONE APPROVAL-AMENDMENT:**
Request to install telecommunication antennas and equipment shelter at 1900

McCarthy Boulevard. Applicant: Nextel Communications. Project Planners: Annelise Judd, 586-3273, and Kim Duncan, 586-3280. (**Approved subject to findings with (4) special conditions**).

6. USE PERMIT NO. 1561 & "S" ZONE APPROVAL-AMENDMENT:

Request to install telecommunication antennas on rooftop equipment screen at 300 Montague Expressway. Applicant: Nextel Communications. Project Planners: Kim Duncan, 586-3280, and David Tilley, 586-3278. (**Approved subject to findings with (5) special conditions**).

7. USE PERMIT NO. 1553 & "S" ZONE APPROVAL-AMENDMENT:

Request to install telecommunications antennas and equipment at 1000 Jacklin Road. Applicant: Nextel Communications. Project Planners: Kim Duncan, 586-3280, and Annelise Judd, 586-3273 (**Continue to June 28, 2000 meeting**).

8. "S" ZONE APPROVAL-AMENDMENTS: Tree removals related to VTA light rail project along McCandless Drive/Capitol Avenue. Project Planner: David Tilley, 586-3278. (**Approved subject to findings**).

9. USE PERMIT NO. 1516-CONFORMANCE WITH CONDITION OF

APPROVAL: Review transportation demand management program for Cisco daycare facility located at 800 Barber Lane. Applicant: Cisco. Project Planner: David Tilley, 586-3278. (**Note receipt and file**).

10. GENERAL PLAN CONFORMANCE REVIEW: Dedication of easements within Great Mall Parkway for roadway and aerial structure purposes for benefit of the Valley Transportation Authority (VTA). Project Planner: David Tilley, 586-3278 and Steve Erickson, 586-3317. (**Approved subject to findings**).

Motion to approve consent item nos. 4, 5, 6, 8, 9 and 10 and to continue item nos. 3 and 7.

M/S: Williams/Montano

AYES: 7

Commissioner Montano, referring to "S" Zone Approval-Amendments relating to tree removals asked why some trees are moved and some are not. Assistant Planner Tilley replied that removal of trees depends on the project and usually comes before the Planning Commission in one form or another.

PRESENTATION

Streetscape Master Plan (review)

Assistant Planner Tilley, Public Works Supervisor Randisi and Cheryl Miller of Amphion Environmental gave a presentation on the Streetscape Master Plan.

Commissioner Montano asked if Calaveras Boulevard was under Caltrans authority. Ms. Miller said that all of Calaveras Boulevard west of I-680 is controlled by Caltrans.

Vice Chair Nitafan asked if the design guidelines would change existing ordinances. Ms. Miller said no.

Ms. Montano asked if the list of trees that would be posted on the website could also show pictures of the trees. Ms. Miller said that they would probably provide a link to another site that would have pictures of the trees.

Chair Hay asked if the Planning Commission would need to take any action at this time. Mr. Tilley replied that staff is recommending that the Planning Commission provide a recommendation to the City Council to adopt this document.

Chair Hay asked City Attorney Faubion if this is an item that requires a public hearing. Ms. Faubion said that a public hearing would be required.

Commissioner Chua suggested that current guidelines be used and not to add new guidelines.

Chair Hay asked if this document is designed using the guidelines within existing ordinances as is currently written. Mr. Tilley replied yes.

Commissioner Williams said that last night at the Midtown Meeting there was a presentation to the public which mention Streetscape. Mr. Williams said he asked the public if they were familiar with the streetscape Master Plan and they said no, so the City Manager offered to provide a copy to them.

Commissioner Montano commented that it is very important to keep the lines of communication open with Public Works Maintenance.

Vice Chair Nitafan commented that this is a second draft and asked if they would be expecting an additional draft. Carol Randisi replied that the idea was to incorporate comments from BTAC and the Planning Commission before presenting the final document to the City Council. Ms. Randisi said that this project came out of the community meetings that they had about 11/2 years ago where it was determined that they need to beautify the City.

Mr. Nitafan asked if they have all the recommendations incorporated in the second draft. Ms. Randisi said yes, they do.

Motion to continue the Streetscape Master Plan review to the Planning Commission meeting of July 28, 2000.

M/S: Nitafan/Burch

AYES: 7

1. Use Permit No. 1560 & "S" Zone Approval-Amendment

Project Planner Schmidt presented a request to allow a video sales and rental store, with revisions to window treatment, located at 481 Jacklin Road, Pad "C" in Foothill Square shopping center, immediately east of the main driveway, on the north side of Jacklin Road.

Commissioner Williams asked if other businesses in the area have had a film treatment

over their windows and has this concern been addressed with the Police Department. Ms. Schmidt replied that they were not sure about other treated windows in the area and they have referred this application to the Police Department, who expressed no concerns about it.

Commissioner Chua asked what the response from the applicant is regarding the recommended business hours and if Hollywood Video had the same business hours.

Larry De Spain, Applicant, 160 Church Street San Francisco, CA, said that their Blockbuster store is open until 12:00 AM, seven days per week as is Hollywood Video. Mr. De Spain said that they have never considered their window covering as signage as it is generic and doesn't bear their name or logo.

Commissioner Burch asked if customers sit out in the parking lot listening to loud music or making noise after 11 PM. Mr. De Spain said no, people usually just rent their movie and leave.

Vice Chair Nitafan said that he is concerned about the residents next door being exposed to noise and suggested that staff monitor the noise. Mr. Burkey explained that staff is not concerned that this would be a noisy business operation, however, as it gets later and there is less traffic even a small amount of noise can be heard, noting that these intermittent sounds are difficult to monitor with a sound meter. Mr. Ntafan suggested that there be a six-month review of the noise impact.

Commissioner Chua pointed out that this Blockbuster is close to Milpitas High School and asked how they plan to address the issue that there may be a lot of high school students coming through the store. Mr. De Spain said that it is not an environment that attracts high school students and it has not been a problem, therefore they have not had to make any special rules or regulations of that type.

Kelly Endradi, Shapell Industries, said that they have security guards monitoring the shopping center.

Commissioner Montano asked if there would be a "Quick Drop" box in the parking lot. Mr. De Spain replied that they haven't used that type of drop-box for a long time, they now have the after hours drop-box located on the storefront.

Chair Hay opened the public hearing.

Motion to close the public hearing.

M/S: Burch/Nitafan

AYES: 7

Motion to approve Use Permit No. 1560 & "S" Zone Approval-Amendment subject to finding with (4) special conditions and an added condition no. 5 for a six-month review for noise impacts and business hours would be open until 12:00 AM.

M/S: Nitafan/Chua

Chair Hay stated that he is concerned that allowing Blockbuster to have this generic window treatment would cause other companies to want to do the same.

Commissioner Williams said that he shares Mr. Hay's concern and added that he also has a concern with public safety.

Vice Chair Nitafan said that he has no concerns with the window treatment.

Commissioner Montano said that she has no concerns with the window treatment and added that she sees it as art.

Commissioner Williams said that in this case the icon is in association with a product that they sell.

Chair Hay said that he would be willing to withdraw the amendment if the Mr. Nitafan was willing to withdraw the second to the amendment and agree to clarify in Special Condition No. 3 that the Planning Commission considers the window treatment to be signage.

Amended Motion to amend condition no. 3 to state that the Planning Commission considers the window treatment to be signage.

M/S: Nitafan/Williams

Amended Motion to approve Use Permit No. 1560 & "S" Zone Approval-Amendment subject to findings with (4) special conditions and an added condition no. 5 for a six-month review for noise concerns and that the store would stay open until 12:00 AM and to amend Special Condition No. 3 to state that the Planning Commission considers the window treatment to be signage.

M/S: Nitafan/Chua

AYES: 7

2. Use Permit No. 1511 Revocation

Project Planner Rush presented the staff report on revocation of Use Permit No. 1511 which allows a paratransit facility involving the parking and dispatching of vehicles for disabled persons located at 230 N. Main Street and referenced the applicants letter of June 13, 2000.

Commissioner Burch abstained from voting on this project due to a conflict of interest because she lives within 300 feet from the subject site.

Chair Hay asked if the Planning Commission has already met all of the legal requirements in order to go forward with the revocation hearing this evening. Attorney Faubion replied yes.

Chair Hay addressed the issue of continuance of the revocation hearing with the

Commissioners.

Vice Chair Nitafan said that he is pessimistic of a resolution and suggested that the Commission move forward on the revocation hearing because the owner is in violation of the use permit.

Commissioner Sandhu said that this is a unique project and it brings a benefit to the City and he would like to hear the applicant's viewpoint.

Commissioner Williams stated that he would recommend continuance of the revocation hearing to previous decisions that have been made by the Planning Commission in the past in similar incidents.

Chair Hay said that he would like this hearing to go forward tonight due to a number of events that occurred by the owner of the business, and the activities that were undertaken without proper licenses and permits. The owner failed to comply with the conditions of the use permit and did not respond to staff's requests. Mr. Hay added that at the last Planning Commission meeting the owner said that there was not another business being operated at that location and now sends the Planning Commission a letter saying that those statements were not true.

Commissioner Montano agreed that the applicant has lost their credibility.

Commissioner Chua agreed that the Commission should move forward with the revocation hearing.

Motion by Commissioner Sandhu, to continue Use Permit 1511 Revocation to the meeting of July 14, 2000.

Motion dies for lack of a second.

Leo Bazile, 1940 Embarcadero Cove, Oakland, CA, stated that he has nothing to add and would let the applicant letter speak for the record.

Dave Richerson, 1920 Yosemite Drive, said that he would like to see the Police Department verify the credentials of all of the drivers before they are allowed to service the public.

Motion to close the Public Hearing.

M/S: Nitafan/Chua

AYES: 6 (Hay, Nitafan, Chua, Williams, Montano, Sandhu)

ABSTAIN: 1 (Burch)

Chair Hay asked City Attorney Faubion to clarify the options. Ms. Faubion stated that staffs suggestions were to recommend to the Council that the use permit be modified, or the Commission can recommend revocation.

Motion to recommend revocation of Use Permit No. 1511 Revocation to the to City

Council.

M/S: Nitafan/Chua

AYES: 5 (Hay, Nitafan, Montano, Williams, Chua)

NOES: 1 (Sandhu)

ABSTAIN: 1 (Burch)

Commissioner Sandhu said he voted against the motion because he feels that the applicant would be in compliance by the next meeting.

Ms. Faubion suggested that the Planning Commission explain their vote for the record.

Chair Hay said that the public record from the prior meeting and this meeting need to be presented to Council, due to the fact that the Commission was misled by the applicant. Mr. Hay went on to say that he doesn't believe the applicant would comply with their commitment based on past evidence.

Commissioner Chua stated that if the City Council does not go with the recommendation of the Planning Commission, she would like the Council to tighten-up the Use Permit.

Vice Chair Nitafan said he voted for revocation based on the applicants failure to act.

Commissioner Montano said that the applicant lost their credibility.

Commissioner Sandhu said that he thinks this business offers a benefit to the City and it is a temporary use.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:35 PM to the next regular meeting of June 28, 2000.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

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**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

May 24, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent:

Staff: Burkey, Judd, Tilley, Rush, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, suggested that the address plaque for the old City Hall be saved as historical memorabilia.

Chair Hay asked staff to look into that.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of May 10, 2000.

Vice Chair Nitafan said that on page 7, paragraph 4, he would like the last sentence to end with "based on Vice Chair Nitafan's suggestion".

Motion to approve the minutes of May 10, 2000 as amended.

M/S: Nitafan/Montano

AYES: 7

ANNOUNCEMENTS

Principal Planner Burkey introduced Jay Peoples, a new reporter representing the Milpitas Post.

Mr. Burkey announced that there may be a need for a Special Planning Commission Meeting next month to review the Midtown Plan.

Commissioner Montano announced that she has been appointed to the Community Advisory Committee for the Santa Clara County Open Space Authority.

Commissioner Chua said that she was pleased to receive the flood survey questionnaire.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Mr. Burkey requested that item no. 4 be removed from consent due to a letter in opposition that staff had received.

Mr. Burkey suggested that item no. 7 be added to the consent calendar as the applicant concurred with the staff recommendation.

Chair Hay opened the public hearing on item nos. 1, 2, 3 and 5.

There were no speakers.

Motion to close the public hearing on item nos. 2, 3 and 5.

M/S: Nitafan/Williams

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 1. USE PERMIT NO. 1553/"S" ZONE APPROVAL-AMENDMENT:** Telecommunications antennas and equipment enclosure at 1000 Jacklin Road. Applicant: Nextel Communications. Project Planner: Annelise Judd, 586-3273. **(Continue to June 14, 2000 Planning Commission Meeting).**
- 2. MINOR TENTATIVE MAP:** Four-lot subdivision of 146± acre site at McCarthy Ranch, west side of McCarthy Boulevard, between Dixon Landing Road and SR 237. Applicant: Joe McCarthy. Project Planner: Annelise Judd, 586-3273. **(Approve subject to findings with (16) special conditions).**
- 3. USE PERMIT NO. 1418-AMENDMENT:** Expand "Banana Leaf" restaurant from 107 to 162 seats at 182 Ranch Drive. Applicant: Kar Tan. Project Planner: David Tilley. 586-3278. **(Approve subject to findings with (5) special conditions).**
- 5. USE PERMIT NO. 860-AMENDMENT:** 6-month review of "Tokyo Bay" restaurant at 224 N. Abel Street. Applicant: Ted Masuda. Project Planner: Rick Hirsch, 586-3280. **(Note receipt and file).**
- 7. "S" ZONE APPROVAL-AMENDMENT:** Transformer screening at 1025 Sinclair Frontage Road. Applicant Ernest Goble. Project Planner: Annelise Judd, 586-3273. **(Approve subject to findings with (5) special conditions).**

M/S: Nitafan/Burch

AYES: 7

Presentation:

Flood Improvement Projects in Milpitas

City Engineer McNeely introduced Lyndel Melton of Santa Clara Valley Water District, who gave a power point presentation regarding flood control projects in Milpitas.

Chair Hay referring to a special tax asked when it would expire. Mr. McNeely replied that the special tax expires July 1, 2000.

Commissioner Montano asked if the Berryessa Creek project is a priority for the Santa Clara Valley Water District. Mr. McNeely said that if they could get the Berryessa Creek project and the Penitencia Creek project completed by 2005 it would be a remarkable accomplishment.

Commissioner Chua asked why numerous Milpitas residents have been put into this flood zone area and if the completion of the creek improvements would remove these residents from the Berryessa Creek flood zone area. Mr. McNeely replied that the area on the south side of the creek and part of the area on the north side of the creek would be removed from the flood plain.

Vice Chair Nitafan asked who would be responsible for the maintenance of the creeks after the projects are completed. Mr. Melton replied that maintenance of the creeks would be the responsibility of the SCVWD.

Commissioner Williams said that rodents have made tunnels along the banks of Abel Boulevard and has weakened the side structures causing them to collapse after a rainstorm. Mr. Williams added that this is starting to erode and undercut into sidewalks and other areas and asked if there has been any effort to address these issues. Mr. McNeely said that SCVWD prioritizes its efforts and they are now negotiating this long-term permit from the Resource Agency.

PUBLIC HEARINGS

4. USE PERMIT NO. 1557

Assistant Planner Tilley presented a proposal for a 1,240-square-foot martial arts school located at 104 Dixon Road. Mr. Tilley explained that staff has received a letter which alleges that this project is opposed by 800+ homeowners in the area.

Vice Chair Nitafan asked if there is any documentation that there actually are 800+ homeowners who oppose this project. Mr. Tilley replied that the letter was received by staff today and there was no opportunity to get documentation or verification.

Commissioner Montano pointed out that the letter was signed by the Sunnyhills Homeowners Association and there is no Sunnyhills Homeowners Association.

Commissioner Williams asked if there has been any reports from the Milpitas Police Department that would indicate that there has been any problems with martial arts schools. Mr. Tilley replied that reports to his knowledge there are no reports of such problems.

Mr. Nguyen, a martial arts instructor at the subject school stated that they have been in the business for over ten years and their goal has always been to teach discipline and to encourage children to stay out of trouble and to stay in school. Mr. Nguyen said that they consider themselves an educational institution.

Thac Huu Nguyen, applicant, 450 S. Main Street stated that as a teacher he is also a mentor for the children. Mr. Nguyen said that he learned martial arts from his father when he was five years old and has been teaching it since he was eleven years old.

Chair Hay opened the public hearing.

Motion to close the public hearing.

M/S: Burch/Montano

AYES: 7

Chair Hay commented that his son has been learning Tae Kwan Do for the past nine years and has had the opportunity to observe the children and has found them to be very responsible and respectful. This program gives children the right kind of focus.

Motion to approve Use Permit No. 1557 subject to findings with (3) special conditions.

M/S: Chua/Williams

AYES: 7

6. Hillside Site and Architectural Review

Assistant Planner Tilley presented a proposal to review of a new two story, 5,931 square foot single family residence in Summitpointe located at 1855 St. Andrews Court.

Vice Chair Nitafan and Commissioner Chua both abstained from voting of this project due to a conflict of interest.

Principal Planner Burkey noted that Mr. Misra, a neighbor, had verbally expressed his objections to the proposed house plan.

Commissioner Williams commented that the public has a right to voice their

opinion, however, they should show up to address the issue personally.

Motion to approve the Hillside Site and Architectural Review subject to findings with (8) special conditions.

M/S: Williams/Sandhu

AYES: 5 (Hay, Burch, Montano, Sandhu, Williams)

ABSTAIN: 2 (Nitafan, Chua)

8. Review of Conformance with Special Condition

Assistant Planner Tilley presented a review of Great Mall circulation analysis, per special condition of theater approval, for Great Mall Drive.

Commissioner Chua asked the nature of the violation and how they define a reasonable timeframe. Mr. Tilley explained that the applicant did not meet the timeframe for the circulation analysis required by the Planning Commission in February of this year.

Commissioner Burch said that the condition should be satisfied.

Tim Ridner, Pyramid Group, representing the applicant, clarified that much of the information that would be required for this circulation analysis has already been presented to staff in a different and draft format for the Home Depot project. It is just a question of whether it is prudent to bring it before the Commission in two different forms.

Commissioner Montano asked if there is an impact with City Hall now being located at the Great Mall and is Dave and Busters over-parked. Mr. Ridner responded that there are no significant impacts associated with the City's use of the property and that for the time being there is more than enough parking for Dave and Busters.

Vice Chair Nitafan said that he would like to see the condition satisfied now because the Home Depot is a separate issue.

Chair Hay said that he disagrees with Mr. Nitafan on the timing perspective.

Commissioner Williams said that he also disagrees with Mr. Nitafan.

Commissioner Burch said that she agrees with Mr. Nitafan, and pointed out that they expect their other applicants to comply with conditions and they should be consistent.

Commissioner Sandhu said that is in support of the project.

Commissioner Chua said that there is a certain reason why a specific condition is attached to a project and the conditions should be met. Ms. Chua said that she

would not support the project.

Motion to provide direction to the applicant to submit the circulation analysis to staff and the Planning Commission in conjunction with the Home Depot project or by August 9, 2000, whichever is sooner. Furthermore, direct staff to have this analysis reviewed by the City's Bicycle Transportation Advisory Committee and to solicit input from Parc Metropolitan, Bridge Housing, and all other outparcel owners.

Chair Hay requested that staff get the traffic impact portion of the analysis to the Planning Commission in advance.

M/S: Williams/Hay

AYES: 4 (Williams, Sandhu, Montano, Hay)

NOES: 3 (Chua, Burch, Nitafan)

Recess

Chair Hay called a 10 minute recess at 9:10 PM.

9. Status Report: Use Permit 1511 Violations

Project Planner Rush presented a proposal for revocation of Use Permit 1511 for paratransit facility located at 230 N. Main Street.

Commissioner Burch abstained from voting on this project due to a potential conflict of interest.

Chair Hay asked for clarification of the relationship of VTA, Dodge Inc. and Outreach. Ms. Rush explained that the VTA contracts with Outreach which provides the paratransit facilities for Santa Clara County and Outreach subcontracts to various subcontractors that provide that transportation service and Dodge Inc. is one of those subcontractors.

Commissioner Chua asked why they have no business license. Ms. Rush said in order for the City to issue a business license the business must be in compliance with all the conditions that are part of the permit. In this case staff could not issue a business license since the conditions of the permit had not been met.

Commissioner Williams asked for clarification of the relationship of the taxicab vehicles that were on the property in relationship to the Outreach vehicles. Ms. Rush said that the taxicab vehicles at that location are purported to be personal vehicles for the employees.

Vice Chair Nitafan asked if they have a permit for a taxi service. Ms. Rush said that they do not have a permit for a taxi service.

Commissioner Sandhu asked when the letter of notification was sent. Ms. Rush

said is was sent on May 15, 2000. Mr. Sandhu asked if that was a standard timeframe. Ms. Rush said yes, it was a reasonable timeframe.

Chair Hay said that when he went by the property last week there were 9 taxicabs on the property.

Ms. Rush pointed out that if they comply with their conditions of approval by June 2, 2000, that information would be provided to the Planning Commission and recommendation would be to cease the revocation process.

Commissioner Sandhu said that he noticed a lot of improvement in the landscaping of the property.

Commissioner Williams said that he has also noticed an improvement in the property. Mr. Williams asked the applicant to elaborate on the taxicab and Outreach vehicles and asked if the approved use permit allows a taxi service. Ms. Rush responded that the existing use permit does not allow a taxi service.

Commissioner Montano said that they appear to be running two businesses in one location.

Chair Hay said that the owner was noticed of the violations on December 22, 1999 and asked if the violations are still pending. Ms. Rush said yes. Mr. Hay said that on December 28, 1999, staff met with the owner and a attorney to discuss a timetable of compliance and plans were to be submitted within two weeks noting that no plans were received. Mr. Hay asked if there was any discussion regarding any of the other issues.. Principal Planner Burkey replied that he had met with the applicant's attorney, the contractor and the Senior Building Inspector to discuss the building permit violations.

Chair Hay asked if there are violations still in existence. Ms. Rush said yes.

Leo Bazile, 1940 Embarcadero Cove, Oakland, CA., said they are working to resolve the two issues and added that they are prepared to submit the present landscaping plan and if it is not sufficient then they would make any necessary changes.

Chair Hay said that there are some questions relating to the taxi-cab business being in violation.

Baljit Singh, owner, said that they have problems getting regular employees to drive for paratransit so they have to ask the cab drivers to fill in and they park their cab on the property. Mr. Bazil added that he gets fined \$500 if he doesn't have enough drivers and getting drivers is difficult in today's job market.

Chair Hay asked who fines Mr. Singh \$500.00. Mr. Singh said Outreach fines them.

Mr. Hay asked Mr. Singh what his relationship with Alpha Cab Company is. Mr. Singh stated that he is the owner.

Commissioner Chua said that she has a problem with the fact that Mr. Singh is operating a business without a business license and asked the City Attorney what can be done to stop this. City Attorney Faubion said that it would be addressed like any other violation of the City code. Mr. Hay asked if a use permit revocation is taking place now.

Ms. Rush reported that the revocation process has been initiated. Notice of Violation on the property and commencing revocation of the use permit.

Mr. Singh. stated that they want to get a business license but the City won't give them one until they take care of some minor problems and are in compliance.

Chair Hay asked if the issue related to the Business License is that they have not applied for it or are there certain conditions that they have to be met before it can be issued. Mr. Rush replied that the Business License refers to the location that the business would be operated. This location cannot be operated as a business because they have not complied with all the use permit conditions.

Ms. Chua asked what the Planning Commission could do tonight to keep this business from operating without a business license tomorrow.

City Attorney Faubion stated that technically if a business is operating in violation of code then it should not be operating and if it is operating the City can commence appropriate action to not have the business operate.

Commissioner Sandhu asked if they would have to recommend this to the City Council. City Attorney Faubion replied that the process has already begun and it would continue on with a hearing before the Planning Commission and then ultimately to the City Council.

Chair Hay said that the taxicab issue is a concern and he would like staff to look into this issue.

Commissioner Chua said that there are conditions that have not been met and they are running a business without a business license.

City Attorney Faubion said regarding the issue of the taxi and its relation to what use has been approved for this site, points up how a revocation hearing is run and why it provides an opportunity for the applicant and for staff to present facts.

Dave Richerson, 1920 Yosemite Drive, stated that at one time he believed this was a compatible use, but the Commission denied it then and he commends them for that now.

Motion to continue revocation process for Use Permit 1511 and that staff to research operation of Alpha Taxi Service.

M/S: Nitafan/Chua

AYES: 5 (Hay, Nitafan, Chua, Williams, Montano)

NOES: 1 (Sandhu)

ABSTAIN: 1 (Burch)

10. Telecommunication Applications Discussion Item

Principal Planner Burkey presented a discussion regarding potential benefits and a way of streamlining the existing review and approval process.

Commissioner Williams said that he is the author of the Telecommunication Policy Statement and within the body of that document there is language that is very similar to the Planning Commissions evaluation of the submittal of projects.

Vice Chair Nitafan said that staff needs to streamline the process and he would like to see the listing of approved projects.

Commissioner Montano commented that telecommunication projects are usually on consent and having such projects on the agenda gave her the opportunity to look at them in depth.

Commissioner Chua said that if the project goes to the Subcommittee they could decide if it should go before the Planning Commission.

Commissioner Sandhu said that he supports the idea of the projects going to the Subcommittee.

Commissioner Montano said that she agrees that the telecommunication projects should go before the Subcommittee.

Dave Richerson, 1920 Yosemite Drive, said that there would be a lot more telecommunication projects coming in the near future.

Chair Hay asked what the Telecommunication Commission looks at. Mr. Williams said that some of the key things are power, direction and safety of radiation.

11. Videotaping Planning Commission Meetings Discussion Item

Chair Hay suggested that they have three more microphones.

Commissioner Burch said that she finds it hard to believe that the City Council would not approve a better audio/visual system.

Commission Chua said that these meetings represent all the hard work of the staff and the Planning Commission and being televised is a way of reporting the citizens.

Commissioner Williams asked when the Fire Station would be ready. Mr. Burkey said that the Fire Station is expected to be complete in July.

Chair Hay suggested that the Planning Commissions travel money be transferred over to purchase a better audio system.

Motion to get a volunteer camera operator and 3 more microphones.

M/S: Nitafan/Williams

AYES: 7

Mr. Burkey said that the target date for the special Midtown Meeting would be Wednesday, June 21, 2000.

Commissioner Burch asked that staff report on the progress of the Campbell's Corner at the next Planning Commission meeting.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:07 PM to the next regular meeting of June 14, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

April 26, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Burch, Sandhu, Chua, Nitafan

Absent: Montano

Staff: Burkey, Judd, Tilley, Faubion,

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, noted that there appeared to be possible use violations occurring at the Friendly Transportation paratransit business at 230 North Main Street, including the storage of taxicabs and other vehicles on the site, some in disrepair. Principal Planner Burkey noted that this problem had come up before and the site manager had responded that many of their drivers also work for Alpha Cab Co. and use the cabs to drive to the Main Street site when they come to work for the paratransit

business. Mr. Burkey said that staff would look into the matter and report back to the Commission.

Chair Hay welcomed the students from Milpitas High School that were in the audience

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of April 12, 2000. Commissioner Nitifan noted a misspelling toward the end of page 3.

Motion to approve the minutes of April 12, 2000 as corrected.

M/S: Nitafan/Williams

AYES: Williams, Burch, Sandhu, Chua, Nitafan

ABSTAIN: Hay

ABSENT: Montano

ANNOUNCEMENTS

Commissioner Burch noted that roof-top equipment on the hotels along Route 237 appeared to be too visually obtrusive and asked staff to look into the matter. Mr. Burkey said staff would look into this and report back.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: Hay, Williams, Burch, Sandhu, Chua, Nitafan

ABSENT: Montano

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Mr. Burkey stated that item no.1, the "S" Zone application for Building B at Foothill Square and item no. 2, Use Permit No. 1541 (Starbuck's) could be put on the consent calendar. Mr. Burkey also noted the revised conditions for item no. 1 that had been just given to the Commission. Commissioner Chua noted that she had concerns regarding the proximity of the proposed new Starbucks to the existing store on North Milpitas Boulevard and asked that item no. 2 not be on consent.

Chair Hay opened the public hearing on consent item nos. 1, 3, 4, 5, 6, 7 and 8.

Motion to close the public hearing on consent item nos. 1, 3, 4, 5, 6, 7 and 8.

M/S: Nitafan/Sandhu

AYES: Hay, Williams, Burch, Sandhu, Chua, Nitafan

ABSENT: Montano

Motion to approve the consent calendar as submitted with staff recommendations and special conditions as follows:

1. **"S" ZONE APPLICATION:** New 3,000 square foot retail building (Pad "B") at Foothill Square shopping center, to be located immediately west of the shopping center main driveway, Jacklin Road. Applicant: Shapell Industries. Project Planner: Annelise Judd. **(Approval subject to findings with (15) special conditions)**
3. **USE PERMIT NO. 1546/"S" ZONE AMENDMENT:** A request to operate an outdoor skatepark and indoor video game arcade and develop an exterior wrought iron fence at 1150 Great Mall Drive. Applicant: Van's Inc. Project Planner: David Tilley. **(Approval subject to findings with (6) special conditions)**
4. **USE PERMIT NO. 1549:** A request to operate a take-out style restaurant with 35 seats at 20 South Park Victoria Drive. Applicant: David Quach. Project Planner: Rick Hirsch. **(Approval subject to findings with (12) special conditions).**
5. **USE PERMIT NO. 1550:** A request to install twelve parapet mounted panel antennas and a 200 square foot equipment enclosure at 500 East Calaveras Boulevard. Applicant: Nextel of California. Project Planners: Kim Duncan, 586-3280; David Tilley. **(Approval subject to findings with (6) special conditions)**
6. **USE PERMIT NO. 1551:** A request to operate a take-out style restaurant with 36 seats at 1735 North Milpitas Boulevard. Applicant: Quizno's Subs. Project Planner: Rick Hirsch. **(Approval subject to findings with (12) special conditions)**
7. **USE PERMIT NO. 1552:** A request to install 6 telecommunication panel antennas and equipment shelter at Ulfert's Center, 642 Barber Lane. Applicant: Nextel of California. Project Planners: Kim Duncan, 586-3280; Annelise Judd. **(Approval subject to findings with (4) special conditions)**
8. **USE PERMIT NO. 1351- REISSUANCE:** Request for a 3-month reissuance for an existing temporary office trailer at 960-970 Ames Avenue. Applicant: U.S. Filter. Project Planner: Annelise Judd. **(Approval subject to findings with (2) special conditions)**

M/S: Nitafan/Burch

AYES: Hay, Williams, Burch, Sandhu, Chua, Nitafan

ABSENT: Montano

PUBLIC HEARINGS

2. **Use Permit No. 1541: Starbuck's**

Assistant Planner Annelise Judd presented the proposed Use Permit No. 1541 application from Starbuck's to operate a 1,600-square-foot coffee shop in the Pad "B" building at the Foothill Square shopping center on Jacklin Road. Ms. Judd noted that the basis for the staff recommendation for a window opening into the seating area.

Commissioner Chua expressed concern that the landscaping would block the recommended window opening. Ms. Judd responded that the plant materials would not be large enough to block the window and noted that, due to flood protection requirements, the building pad would be elevated, thus allowing a clear line of sight to the window.

Commissioner Chua asked why this Starbuck's was being proposed when another one was located nearby. Rhonda Rigenhagen of Starbuck's Inc., stated that the existing Starbuck's on North Milpitas Boulevard was so very busy that this store was need to relieve some of that customer service demand.

Commissioner Chua asked about the traffic impacts of the proposed Starbuck's. Ms Judd noted that the traffic impact assessment for the original shopping was updated when the building applications for Pads A and C were approved two years ago, and that the Transportation Planner had reviewed the proposed Starbuck's use and determined that the conclusions of the 1998 traffic update were still valid.

Commissioner Sandhu asked if there would be a drive-though service at this store. Kelley Erardi, of Shapell Industries, responded, stating that there would not be any drive through service.

Motion to close the public hearing.

M/S: Williams/Nitafan

AYES: Hay, Williams, Burch, Sandhu, Chua, Nitafan

ABSENT: Montano

Motion to approve Use Permit No.1541, subject to the recommended six (6) Sspecial Conditions.

M/S: Chua/Nitafan

AYES: Hay, Williams, Burch, Sandhu, Chua, Nitafan

ABSENT: Montano

Commissioner Chua expressed concern about the poor, virtually inaudible quality of the videotape of the April 12 Planning Commission meeting. Commission Williams agreed, noting that the audio recording quality was so bad as to make the video of the meeting useless. Mr. Burkey noted the difficulties inherent in videotaping with available equipment the Commission meetings in their interim location at the Community Center. Mr. Burkey stated that staff would look into

the possibility of up-grading the audio quality of the video recordings--noting that audio tapes would be made of future meeting to ensure a good record of the proceedings is available. Mr. Burkey also noted that if the audio quality cannot be improved for the interim situation, it may be necessary to cease video recording and play-back of Commission meetings until the new Main Street Fire Station--which will have TV broadcast capability built into its training room--becomes available, probably in July.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:35 PM to the next regular meeting of May 10, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary/Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

April 12, 2000

PLEDGE OF ALLEGIANCE

Vice Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent: Hay

Staff: Burkey, Judd, Tilley, Rush, Faubion, Ramsay

PUBLIC FORUM

Vice Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Vice Chair Nitafan called for approval of the minutes of the Planning Commission meeting of March 22, 2000.

Commissioner Sandhu corrected the spelling of the word Sikh on page 1, paragraph 1.

Motion to approve the minutes of March 22, 2000 as amended.

M/S: Williams/Montano

AYES: 4 Nitafan, Montano, Sandhu, Williams

ABSTAIN: 2 Chua, Burch

ABSENT: 1 Hay

ANNOUNCEMENTS

Principal Planner Burkey announced that the City Hall move is completed and went very well. Mr. Burkey also announced the Planning Commission meetings would now be prerecorded and viewed by the public at a later date.

Commissioner Williams announced that he attended the Sikh Foundation breakfast and found it to be very rewarding.

APPROVAL OF AGENDA

Vice Chair Nitafan called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Williams/Burch

AYES: 6 (Nitafan, Burch, Montano, Sandhu, Chua, Williams)

ABSENT: 1 (Hay)

CONSENT CALENDAR

Vice Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

There were no changes.

Vice Chair Nitafan opened the public hearing on item nos. 3, 4, 5, 6, 7,8 & 9.

Motion to close the public hearing on item nos. 3, 4, 5, 6, 7 & 9. The public hearing will remain open on item no. 8.

M/S: Williams/Montano

AYES: 6 (Nitafan, Burch, Montano, Sandhu, Chua, Williams)

ABSENT: 1 (Hay)

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

3. USE PERMIT NOS. 1544 A&B AND 1545/"S" ZONE AMENDMENT:

Request to operate a temporary fitness club at 545 E. Calaveras Blvd for a period not to exceed one year. A request to operate a fitness club at 577 E. Calaveras Boulevard (former AMC Theatres). Applicant: 24-Hour Fitness. (**Approve Use Permit No. 1544 subject to findings with 6 special conditions and Use Permit No. 1545 subject to findings with 8 special conditions**). Project Planner: David Tilley.

4. USE PERMIT NO. 1543: Freestanding sign at 1565 Barber Lane. Applicant: Swett Equity. (**Approve subject to findings with 6 special conditions**). Project Planner: Annelise Judd.**5. USE PERMIT NO. 1264-AMENDMENT:** Expand church to add classrooms at 473 Sinclair Frontage Road. Applicant: South Bay Chinese Gospel Church. (**Approve subject to findings with 5 special conditions**). Project Planner: Marina Rush.**6. REISSUE USE PERMIT NO. 1475 A, B, C & D:** Temporary fire facilities at 25 Curtis Avenue. Initiated by City. (**Approve subject to findings with 4 special conditions**). Project Planner: Marina Rush.**7. REISSUE USE PERMIT NOS. 1471 & 1472:** Temporary office/classroom trailer at 1200 Piper Drive. Applicant: Waukesha Electric Systems (**Approved**). Project Planner: Marina Rush.**8. USE PERMIT NO. 1549:** Take-out restaurant at 20 S. Park Victoria Drive. Applicant: David Quach. (**Continued the public hearing to April 26, 2000**). Project Planner: Marina Rush.**9. USE PERMIT NO. 1547:** Proposed fast-food restaurant with take-out and seating at 1747 N. Milpitas Boulevard (Crescent Square shopping center). Applicant: Ramn Deep Chniber. (**Approve subject to findings with 10 Special Conditions**). Project Planner: Marina Rush.

M/S: Williams/Montano

AYES: 6 (Nitafan, Burch, Montano, Sandhu, Chua, Williams)

ABSENT: 1 (Hay)

PUBLIC HEARINGS

Staff Presentation

Assistant Planner Tilley introduced Byron McCulley and Cheryl Miller of Amphion Environmental Inc. who gave a presentation on the Streetscape Master Plan.

Commission Williams stated that it is important that Milpitas is recognized as Milpitas and asked if the plan would make this kind of statement. Mr. McCulley said that, yes, the guidelines include policies on community identity.

Commissioner Burch asked what the plan is for the O'Toole elm trees. Ms. Miller explained that the O'Toole elms would be replaced with disease resistant trees.

Commissioner Sandhu asked how they would be prioritizing implementation. Mr. McCulley said that they would be creating methodology for selecting priorities. Ms. Miller added that the plan would also include outside grant sources. Mr. Sandhu asked if the plan would include cover private streets. Mr. McCulley said, yes, the plan would address that subject.

Commissioner Chua asked what was the strategic plan for getting input from the general public. Mr. McCulley said that there would be a public hearing before the Planning Commission, Parks, Recreation, Cultural Resources Commission and City Council.

Commissioner Montano commented on the beautification landscaping taking place and asked if pedestrian walkways are being considered. Ms. Miller replied that walkways are being considered.

Vice Chair Nitafan asked if any new ordinances will be developed from the Streetscape. Ms. Miller said that they haven't come across anything that would require a new ordinance.

Commissioner Burch asked for the Master Plan implementation timeline. Ms. Miller replied that it is ten to twenty years.

Commissioner Sandhu asked where the need for the Streetscape Master Plan originated. Principal Planner Burkey replied that it was originated from informal comments from observers and comments from City Council and Commissions regarding such needs.

1. Use Permit No. 1548 and "S" Zone Approval-Amendment

Assistant Planner Judd presented a proposal on research and development use proposed in a General Commercial district, plus exterior modifications to building and site at 1323 Great Mall Drive.

Vice Chair Nitafan asked about the storage of hazardous wastes. Ms. Judd explained that such materials would be stored on site and removed by a company that was trained to handle hazardous waste, adding that a hazardous materials business plan would be filed.

Commissioner Sandhu asked if there has been a new traffic study. Ms. Judd replied that after review by staff it was concluded that a new traffic study was not needed.

Vice Chair Nitafan opened the public hearing.

Doug Dahlin, AIA, Dahlin Group Architects & Planners, thanked staff and said that he is excited about being a part of Milpitas.

J. J. Pan, Founder of Lightwaves, said that he has been a citizen of Milpitas for ten years. Mr. Pan said that the materials that are used are gas, oxygen and

hydrogen and that Lighwaves 20/20 will be a leader in fiberoptics technology and project a good image for the City of Milpitas.

Commissioner Chua commended Mr. Pan for the design of the building and said that the location is good.

Commissioner Williams said that he is pleased with the design and asked that they make Milpitas a beta test site for their activities so Milpitas can benefit from their revolutionary concepts.

Commissioner Sandhu asked where manufacturing would take place. Mr. Pan said it has not been decided where they are going to manufacture any product.

Motion to close the public hearing.

M/S: Williams/Burch

AYES: 6 (Nitafan, Burch, Montano, Sandhu, Chua, Williams)

ABSENT: 1 (Hay)

Motion to approve Use Permit No. 1548 & "S" Zone Approval-Amendment

M/S: Chua/Burch

AYES: 6 (Nitafan, Burch, Montano, Sandhu, Chua, Williams)

ABSENT: 1 (Hay)

2. Use Permit Nos. 1458 & 1488 and "S" Zone Approval Time Extension

Assistant Planner Tilley presented a proposal for a one-year time extension of approvals for a coffee shop and restaurant at 167 and 187 South Main Street.

Commissioner Burch asked if it is possible for the Planning Commission to add additional special conditions. Mr. Tilley said that additional conditions could be added on the "S" Zone. Ms. Burch said that she would like a condition added that would address the issue of weeds, debris and vagrants. Mr. Tilley pointed out that Milpitas staff is working on Neighborhood Beautification and addressing these issues which are scheduled to be cleaned up within 30-days.

Vice Chair Nitafan opened the public hearing.

Ola Hassan said that since the approval of this project he has spent \$450,000 on this project and there are many agencies involved in getting this project done. Mr. Hassan said that it is not his intention to leave this project unfinished and that he is planning to have the Grand Opening in August.

Commissioner Chua asked if Mr. Hassan has any comments on the staff's recommendations. Mr. Hassan said that all issues have been addressed.

Commissioner Williams asked for the timeline of the permit process and if any progress is being made. Mr. Tilley replied that there is progress being made, including getting a foundation permit. Mr. Williams asked when Mr. Hassan would get the building permit. Mr. Hassan replied that he would get the building permit in one week.

Commissioner Montano said that she is looking forward to the restaurant and is glad that it is moving forward.

Vice Chair Nitafan opened the public hearing.

Jerry Glass, 151 South Main Street, said that he is opposed to granting the proposed time extension for 167 South Main Street. Mr. Glass said that for three years he has watched Campbell's Corners deteriorate and said that it is time to board up this structure and protect it from collapse.

Motion to close the public hearing.

M/S: Williams/Burch

AYES: 6 (Nitafan, Burch, Montano, Sandhu, Chua, Williams)

ABSENT: 1 (Hay)

Commissioner Montano asked how they could expedite this project. Commissioner Williams asked what are the options. City Attorney Faubion suggested two options would be to: 1) Planning Commission could request staff to update regularly and advise the Planning Commission; 2) the extension could be granted and the Planning Commission could review the structural progress every 3 months and, if at that time sufficient structural progress has not taken place, a condition could be added or modify the "S" Zone extension.

Commissioner Chua requested that there be a project plan showing who is responsible.

Commissioner Burch asked how the back of the building could be made sturdy until the next step. Mr. Burkey said that could be added as a condition.

Commissioner Sandhu pointed out that there are some things that are out of Mr. Hassan's control and he doesn't want to discourage the progress with additional conditions.

Commissioner Montano said that she concurs with Mr. Sandhu and is in support of extending the project.

Motion to note receipt and file for Use Permit Nos. 1458 and 1488

M/S: Williams/Sandhu

AYES: 5 (Nitafan, Montano, Sandhu, Chua, Williams)

NOES: 1 (Burch)

ABSENT: 1 (Hay)

Motion to approve extension of "S" Zone application for a period of 18 months subject to findings with (11) special conditions and the added condition that during the 18 month period staff will bring back a milestone report reflecting the status of progress and a second added condition to bring project back to the Commission in 3-months to report construction progress.

M/S: Chua/Montano

AYES: 5 (Nitafan, Montano, Sandhu, Chua, Williams)

NOES: 1 (Burch)

ABSENT: 1 (Hay)

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:00 PM to the next regular meeting of April 26, 2000.

Respectfully Submitted,

STEVE BURKEY
Secretary

KAREN RAMSAY
Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

March 22, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Montano, Sandhu, Williams

Absent: Burch, Chua

Staff: Barone, Burkey, Lindsay, Judd, Tilley, Rush, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Steve Soreano, resident, commended the Dave and Busters group for their high quality establishment.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of March 8, 2000.

Commissioner Sandhu pointed out a duplicate phrase on page 7.

Motion to approve the minutes of March 8, 2000 as amended.

M/S: Nitafan/Williams

AYES: 5 (Hay, Nitafan, Montano, Sandhu, Williams)

ABSENT: 2 (Burch, Chua)

ANNOUNCEMENTS

Chair Hay announced that this would be the last Planning Commission meeting held in this Council Chambers and that the next meeting would be held at the Community Center, 457 E. Calaveras in rooms 7 and 8.

Commissioner Sandhu announced that the Sikh Foundation Community Breakfast would be held on April 2, 2000 from 7:00 AM to 8:30 AM at Sunny Hills Methodist Church.

Vice Chair Nitafan thanked the three selection committees for a great job in the selection of the Citizen of the Year, Fire Fighter of the Year, Police Office of the Year 2000.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

There were no changes.

Principal Planner Burkey requested that Item No. 10 be removed from the agenda.

Motion to approve the agenda as amended.

M/S: Nitafan/Montano

AYES: 5 (Hay, Nitafan, Montano, Sandhu, Williams)

ABSENT: 2 (Burch, Chua)

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Principal Planner Burkey requested that Item No. 4 be removed from consent for discussion.

Chair Hay opened the public hearing on consent item nos. 5, 6, 7, 8 & 9.

Motion to close the public hearing.

M/S: Nita fan/Williams

AYES: 5 (Hay, Nita fan, Montano, Sandhu, Williams)

ABSENT: 2 (Burch, Chua)

Motion to approve the consent calendar as amended with all staff recommendations and conditions and with the removal of item no. 4 as follows:

5. **USE PERMIT NO. 1537:** A request to operate a full service restaurant with 64 seats and sale of alcoholic beverages at 1783 N. Milpitas Boulevard. (Crescent Square). Applicant: Frank Tong Te. (**Approved subject to findings with (11) Special Conditions**).
6. **USE PERMIT NO. 750-AMENDMENT:** A request to add a kitchen and take-out food service at 1836 N. Milpitas Boulevard. (Lion Market). Applicant: David Tran. (**Approved subject to findings with (6) Special Conditions**).
7. **USE PERMIT NO. 1542:** A request to operate a commercial tutoring business at 960 Jacklin Road. Applicant: Fun Learning Inc. (**Approved subject to findings with (5) Special Conditions**).
8. **USE PERMIT NO. 1538 & "S" ZONE APPROVAL--AMENDMENT:** A request to install building mounted telecommunications panel antennas and rooftop equipment cabinet at 777 Bellevue Drive (Crown Plaza Hotel). Applicant: Metricom, Inc. (**Approved subject to findings with (3) Special Conditions**).
9. **USE PERMIT NO. 1524 & "S" ZONE APPROVAL--AMENDMENT:** A request to install a telecommunications antenna system on an existing PG&E electrical tower and equipment cabinet at 400 S. Hillview Drive. Applicant: Sprint PCS. (**Approved subject to findings with 4 Special Conditions**).

PUBLIC HEARINGS

Midtown Specific Plan

Commissioner Montano and Commissioner Williams excused themselves from participating due to a conflict of interest. Straws were drawn and Commissioner Williams remained for the purpose of forming a quorum.

Chair Hay stated that there has been a misunderstanding on the part of the community that the Midtown Subcommittee which is composed of two Planning Commissioners and two City Council members, were the authors of this vision statement that is going to be presented this evening. Chair explained that their role was to address issues of guiding

the process and not content and so the vision statement itself is the result of numerous meetings with the committee. This evening is the first time that the full Planning Commission is addressing this.

Associate Planner Lindsay, Allan Folks and Carolyn Radisch of EDAW presented a proposal to review the draft of the goals and the vision of the Midtown Specific Plan.

Commissioner Sandhu asked if there would be new regulations with this plan. Mr. Lindsay replied that they would use the existing regulatory framework in regards to the General Plan, Zoning Ordinance, Planning Commission and City Council. There is no new regulatory body being proposed. Mr. Sandhu asked if they would be changing the current parking requirements or guidelines. Mr. Lindsay said that parking concerns came up at the community meetings and one concept that was discussed was having central parking areas. Mr. Sandhu asked if there would be any height restrictions for the building. Mr. Lindsay said that it depends on how the plan is being drafted.

Vice Chair Nitafan said he would like the vision statement to include attractive, vital and an easily accessible mixed-use district.

Commissioner Williams commented that there has been concern from the public regarding traffic flow down Main Street and Abel Street and it is important that this issue is recognized.

Chair Hay commented that the Vision Statement seems to resemble a politician's statement. Mr. Hay questioned whether it would be possible to accomplish this vision statement given the size of this property and the constraints with which they have to work with. Ms. Radisch of EDAW replied that she thinks it is possible with the twenty-year horizon that they are looking at and as property values continue to grow looking at ways to improve access to the area will become compelling. Mr. Hay commented that he wants to be sure that they maximize their outreach to the public to assure that they take part in the process.

Chair Hay opened the public hearing.

Eric Dockers, 1870 Everglades, said that the only way that this will be viable is if the residents think this is necessary for Milpitas, and added that the community meetings would be very effective.

Dave Richerson, 1920 Yosemite Drive, said that he and others are thrilled with the Midtown crossing from Yosemite to Curtis.

Charles Evans, Chair of Midtown Neighborhood Association Steering Committee, questioned how seriously the City would explore and enforce a mixed-use development of the area adding that the architecture guidelines are too vague and he would like to see more specific guidelines in that area.

Scott, 1016 Summerfield Drive, commented that Main Street should give people the same experience that they get when they go to Santa Cruz or Castro Street, the wide sidewalks, the trees, which is an emotional experience.

Elizabeth Sevilla, President of the Summerfield Homeowners Association, said that they would like to have more specific ideals such as how many schools, how many daycare centers, etc.

Adam Herbal, 184 Sunrise Way, said that he likes the idea of one way streets on Main and Able Streets to restrict traffic.

Rob Means, 1421 Yellowstone, said having a bicycle/pedestrian over crossing really sets the tone for a pedestrian friendly area.

Ed Rush, 260 South Main Street, said that having one way traffic on Main and Able Streets is a bad idea, the City should instead redirect unwanted traffic and make it accessible for the desired traffic.

Motion to close the public hearing.

M/S: NitaFan/Williams

AYES: 4 (Hay, NitaFan, Sandhu, Williams)

ABSENT: 2 (Burch, Chua)

ABSTAIN: 2 (Montano)

Motion to recommend to the City Council to adopt the goals and vision statement of the Midtown Specific Plan as amended.

M/S: NitaFan/Williams

AYES: 4 (Hay, NitaFan, Sandhu, Williams)

ABSENT: 2 (Burch, Chua)

ABSTAIN: 2 (Montano)

City Attorney Faubion suggested that the Planning Commission formally direct staff to look at the conflict issues and to report back to the Planning Commission.

Motion for the Planning Commission to formally direct staff to look at the conflict issues and to report back to the Planning Commission.

M/S: NitaFan/Williams

AYES: 4 (Hay, NitaFan, Sandhu, Williams)

ABSENT: 2 (Burch, Chua)

ABSTAIN: 2 (Montano)

RECESS

Chair Hay called a 10 minute recess.

2. Use Permit No. 1534

Assistant Planner Tilley presented a proposal to request to install a 7-foot tall freestanding sign at 620 S. Main Street.

Commissioner Montano asked if there are other signs in that area of that height. Mr. Tilley replied that the Mini Storage sign is of similar height.

Vice Chair Nitafan asked how this sign is different from the Kentucky Fried Chicken Sign. Principal Planner Burkey responded that this sign is wider and does not have the same decorative elements.

Commissioner Williams asked if this group of signs were submitted to the subcommittee recently with a different style. Mr. Tilley said, yes, they were wall signs instead of freestanding signs.

Chair Hay opened the public hearing.

Tom Howard, representing the applicant, said it would be very costly to move this sign to a cement base and if the sign does not get approved the applicant will probably reface what is already there. Mr. Howard commented that the findings that were proposed by staff mentions that their proposal is inconsistent with Council Resolution 6932, saying that was subjective judgement. Mr. Howard pointed out many signs in the area are the same size and just as close to the street as that sign that is being proposed.

Dave Richerson, 1920 Yosemite, said that he concurs with everything Mr. Howard said.

Motion to close the public hearing.

M/S: Williams/Montano

AYES: 5 (Hay, Nitafan, Montano, Sandhu, Williams)

ABSENT: 2 (Chua, Burch)

Vice Chair Nitafan asked for the total height of the sign. Mr. Tilley replied that the total sign height above grade would be 7-feet.

Motion to approve Use Permit No. 1534 and "S" Zone Amendment subject to findings with (3) Special Conditions.

Commissioner Montano said that the applicant is making a good effort to upgrade and she will support the motion.

M/S: Williams/Montano

AYES: 4 (Hay, Nitafan, Montano, Williams)

NOES: 1 (Sandhu)

ABSENT: 2 (Chua, Burch)

3. "S" Zone Approval-Amendment

Assistant Planner Judd presented a proposal to request to delete Special Condition No. 6 relating to a requirement to underground an existing PG&E box at 251 Jacklin Road.

Commissioner Montano questioned why PG&E would not approve an underground switch gear box. Ms. Judd replied that some switchgear boxes can be placed under ground and some can not. Ms. Montano asked why PG&E doesn't know which type of switchgear box this is. Ms. Judd replied that they have not done the in depth research to determine which type it is.

Chair Hay asked when the center was built. Ms. Judd said it was built in 1989. Mr. Hay asked why putting this switchgear underground was not a requirement when the Center was first built. Mr. Judd replied that the planned installation of the box was not known at that time.

Kelly Erardi, Shapell Industries, 100 N. Milpitas Blvd., pointed out that many sites around Milpitas have switchgear boxes above ground, some old and some new. Mr. Erardi questioned why he would have to place his switchgear boxes underground if other sites are not.

Chair Hay asked if it is correct that approval of switchgear boxes does not go before the City Council, Planning Commission or Planning staff. Ms. Judd said yes that is correct. Planning and Neighborhood Preservation Director Barone pointed out that as part of the Streetscape Master Plan process looking at utility box process is part of what is being analyzed.

Chair Hay asked what the timeline for the evaluation is. Mr. Erardi said that he didn't know when the specific evaluation would take place.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 5 (Hay, Nitafan, Montano, Sandhu, Williams)

ABSENT: 2 (Chua, Burch)

Commissioner Williams said that he sees a great deal of ambiguity with this and there is no consistency with one organization. Mr. Williams said he would be in concurrence of staff's recommendation of denial.

Vice Chair Nitafan said that staff should work together with PG&E to navigate this should be handled in the future.

Motion to deny.

M/S: Nitafan/Williams

Chair Hay commented that there are switchgear boxes above ground at the Great Mall and McCarthy Ranch so asking to have this box put underground is inconsistent.

M/S: Williams/Montano

AYES: 4 (Nitafan, Montano, Sandhu, Williams)

NOES: 1 (Hay)

ABSENT: 2 (Chua, Burch)

4. Use Permit No. 1539

Assistant Planner Judd presented a proposal to request a parking reduction in order to accommodate a dental office at 280 S. Main Street.

Ms. Judd handed out revisions of the special conditions.

Commissioner Sandhu asked if there would be a sign in the facility to indicate where there is parking. Ms. Judd replied that there is not, but the Commission could require that there be a sign.

Commissioner Williams asked if staff and the applicant have considered that they could park at St. Johns and leave that parking stall open on Saturday. Ms. Judd said no, they didn't discuss that. Mr. Williams said that he would like to have a less cumbersome shared-parking documentation that would not require any type of surveillance. Ms. Barone said that the Commission could decide that allowing a reduction of one parking stall is reasonable based on the style of business that the owner of the property would be occupying.

Chair Hay opened the public hearing.

Milagros Taberna, 280 S. Main Street, said that she is asking the Planning Commission for their help to approve this project.

Motion to close the public hearing.

M/S: Williams/Montano

AYES: 5 (Hay, Nitafan, Montano, Sandhu, Williams)

ABSENT: 2 (Chua, Burch)

Motion to approve Use Permit 1539.

M/S: Nitafan/Montano

Motion Amended to approve Use Permit 1539 with the deletion of Finding No. 4 and with the deletion of Special Condition No. 4.

M/S: Nitaфан/Williams

AYES: 4 (Hay, Nitaфан, Sandhu, Williams)

NOES: 1 (Montano)

ABSENT: 2 (Chua, Burch)

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:40 PM to the next regular meeting of April 12, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

March 8, 2000

Work Session on Midtown Specific Plan

A work session on the Midtown Specific Plan was held in the Milpitas Community Center Auditorium at 6:00 PM.

The Planning Commission Meeting reconvened at the Milpitas City Council Chambers at 8:00 PM.

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 8:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Burch, Montano, Sandhu, Nitaфан

Absent: Chua (out of town)

Staff: Barone, Burkey, Judd, Tilley, Rush, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that

the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of February 23, 2000.

Motion to approve the minutes of February 23, 2000 as submitted.

M/S: Nitafan/Williams

AYES: 7

ANNOUNCEMENTS

Chair Hay announced that he, Associate Planner Lindsay, Vice Chair Nitafan, Commissioner Montano and Commissioner Burch attended the Planners Institute, which was held at the Monterey Convention Center.

Marsha Schneider of Recreation Services announced that in February the Milpitas City Council approved the 2000 Special Event Calendar, which includes a multi-cultural community fair that is, planned for Saturday, October 7, 2000 at Cardoza Park from 11:00 AM to 5:00 PM. Ms. Schneider invited everyone to attend the first community input and information night held on Wednesday, March 29, 2000 at the Community Center Auditorium at 7:00 PM.

Commissioner Burch thanked the Milpitas Police Department for finding her 8-year-old son after he was missing for two hours after school. Ms. Burch assured the community that Milpitas was a safe place to live.

Commissioner Montano voiced her concern regarding the height of the landfill and asked if a BFI representative could come and discuss the issue. Principal Planner Burkey said that staff would arrange for a BFI representative to come and address these concerns.

Vice Chair Nitafan thanked the Milpitas Fire Department for their quick response to a fire incident that took place at the Sunny Hills Apartments.

Commissioner Sandhu thanked the Milpitas Traffic Engineer for installing a traffic light on Dixon Landing Road.

Commissioner Montano asked about the palm trees that had been at the Crescent Square Shopping Center site. Planning Commission. Planning and Neighborhood Preservation Director Barone replied that when the Crescent Square Shopping Center proposal came before the Commission the removal of the trees was part of that approval because the palm trees were not healthy enough to save.

Chair Hay welcomed the Milpitas High School students that were present in the audience.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

There were no changes.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 6 (Hay, Nitafan, Burch, Montano, Sandhu, Williams)

ABSENT: 1 (Chua)

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Principal Planner Burkey informed the Commission that staff had received a telephone call from a homeowner that lives near the site of item no. 1, Use Permit 1536, who objected to this project.

Commissioner Williams stated that he attended the last Telecommunications Commissions meeting and the question of power and emission rating was discussed and deliberated and the power rating and the emission of the antennas were found to be satisfactory.

Chair Hay opened the public hearing on consent item nos. 1 and 2.

Dave Richerson, 1920 Yosemite Drive, referring to consent item no. 1, stated that he is proud of the work that City staff is doing on this project.

Motion to close the public hearing on item no. 1.

M/S: Nitafan/Burch

AYES: 6 (Hay, Nitafan, Burch, Montano, Sandhu, Williams)

ABSENT: 1 (Chua)

- 1. USE PERMIT 1536:** A request to install PCS antenna and equipment shelter at 931 Cadillac Court (APN: 022-38-019). Applicant: Cellular One. Project Planner: Marina Rush, 586-3272. (Approved subject to findings with (4) Special Conditions).
- 2. USE PERMIT 1534:** A request to install a 35 square foot freestanding sign 8.25 feet tall at 620 S. Main Street (APN: 86-25-027). Applicant: Honda of Milpitas. Project Planner: David Tilley, 586-3278. (Continue to the March 22, 2000 meeting).
- 5. "S" ZONE APPLICATION-18 MONTH TIME EXTENSION:** A request for

an 18-month time extension for Pads A and C at Foothill Square Shopping Center. Applicant: Shapell Industries of Northern California. Project Planner: Annelise Judd, 586-3273. (Approved subject to findings with (25) Special Conditions).

6. **15-MONTH REVIEW-USE PERMIT 1478:** A 15-month review of restaurant garbage handling and overall sanitary conditions at 243 W. Calaveras Boulevard (Anh Hong Saigon restaurant). Applicants: David and Michael Le. Project Planner: Annelise Judd, 586-3273. (Approved subject to findings with (13) Special Conditions).
7. **"S" ZONE APPROVAL-AMENDMENT:** A request to install composition roof at 361/363 Lynn Avenue. Applicant: CRW Industries, Inc. Project Planner: Marina Rush, 586-3272. (Approved subject to findings with (2) Special Conditions).
8. **"S" ZONE APPROVAL-AMENDMENT:** A request to install a building wall sign at 1565 Barber Lane (Polycom). Applicant: Swett Equity. Project Planner: David Tilley, 586-3278. (Approved subject to findings with (4) Special Conditions).

Motion to approve consent item nos. 1, 5, 6, 7 and 8 and to continue consent item no. 2 to the March 22, 2000 meeting.

M/S: Williams/Nitafan

AYES: 6 (Hay, Nitafan, Burch, Montano, Sandhu, Williams)

ABSENT: 1 (Chua)

PUBLIC HEARINGS

3. "S" Zone Approval-Amendment

Assistant Planner Judd presented a proposal to request to delete Special Condition No. 6 relating to a requirement to underground and exiting PG&E box at 251 Jacklin Road.

Commissioner Williams asked if there are any other underground switching devices at any other site in Milpitas. Ms. Judd said that she has not encountered this before.

Commissioner Burch said that she recalls that the Commission wanted the boxes to remain underground and asked why they are requesting differently.

Kelly Erardi, representing Shapell Industries, complemented Planner Judd for her thorough and accurate staff report. Mr. Erardi said that he agreed to this special condition two other times and said he made the mistake of thinking that the PG&E box was a transformer box but it turned out to be a switch gear box. Chair Hay asked if there are transformers on Pads A, B or C. Mr. Erardi said that there are no transformers on Pads A, B or C. Mr. Hay asked for clarification of a switch gear

and a transformer. Mr. Erardi explained that the transformer supplies power just to the building and the switchgear is a box that feeds power to several sources. Mr. Hay asked if each building in the shopping center has its own transformer. Mr. Erardi replied yes.

Commissioner Burch asked why Mr. Erardi didn't want the transformer placed underground. Mr. Erardi said that it is expensive.

Jonathan Leung, Senior at Milpitas High School asked why the boxes need to be put underground or screened. Chair Hay said that staff would answer this after the public hearing.

Dave Richerson, 1920 Yosemite Drive, stated that Shapell agreed twice to put the transformers underground and he thinks they should be held to that agreement.

Motion to close the public hearing.

M/S: NitaFan/Williams

AYES: 6

ABSENT: 1

Principal Planner Burkey addressed the question that was asked by Jonathan Leung and explained transformer boxes are placed underground or screened for appearance purposes.

Vice Chair NitaFan asked what is the responsibility of PG&E if the transformers are placed underground. Assistant Planner Judd replied that to her knowledge PG&E does not have a policy or a responsibility regarding the underground placement of these transformers.

Commissioner Burch questioned how PG&E would gain access to these transformers if the bushes became too large. Ms. Judd explained that PG&E would need to arrange some sort of entry or access adding that there is some concern regarding sight distance. Ms. Burch stated that she would not be voting in support of this project.

Commissioner Sandhu asked Mr. Erardi what the height of the screening would be. Mr. Erardi replied that it would be four-feet or higher. Mr. Sandhu asked if a structure could be put around the box. Mr. Erardi said that he would be willing to do that.

Chair Hay questioned what the City's historic practices are regarding switch boxes. Mr. Hay said that there are some unanswered questions that he would like answered before he could make a decision.

Commissioner Montano asked if it would be possible to move the structure. Mr. Erardi said that he would be willing to consider that option.

Vice Chair Nitafan stated that would be a poor location for the transformer and it should be moved or placed underground.

Commissioner Williams agreed with Mr. Nitafan and said that he can't be concerned with cost when there are safety issues to be considered. Mr. Williams added that he would be in agreement with denial at this time but would entertain the idea of a continuance if he can be shown the merits of an alternative method.

Motion to reopen the public hearing and to continue to the meeting of March 22, 2000.

Commissioner Burch asked what the legal ramifications for approving this would be. City Attorney Faubion replied that staff will be looking into background information and conducting research for this purpose.

Commissioner Montano asked if they would be creating an ordinance on this issue. Chair Hay explained that they would be coming back with options and guidelines that they could adopt.

M/S: Williams/Nitafan

AYES: 6 (Hay, Nitafan, Burch, Montano, Sandhu, Williams)

ABSENT: 1 (Chua)

4. Hillside Site and Architectural Review / Variance No. 508.

Assistant Planner Tilley presented a proposal to request construction of a single family residence and a Variance to the maximum impervious surface coverage limit at the Quince Lane Subdivision, Lot 7.

Commissioner Sandhu announced that he would abstain from voting on this project due to a conflict of interest because he lives within 300-feet of the property. Vice Chair Nitafan announced that he would abstain from voting on this project due to a conflict of interest because of his real estate business.

Chair Hay asked how many developed lots in that area. Mr. Tilley replied that of the seven lots in the sub-division six are developed. Mr. Hay asked if the lots are considered legal non-conforming at this point. Mr. Tilley said yes. Mr. Hay asked what the proposed square footage of the house is. Mr. Tilley answered that the house was approximately 5,900-sq. ft. noting that the impervious surface coverage has been reduced approximately 1500 square feet from the original proposal. Mr. Hay asked how much of the impervious surface on site is the City responsible for. Mr. Tilley said the total is approximately 2600 square feet.

Commissioner Montano asked if the other homes have also applied for a variance. Mr. Tilley replied that when the other six homes were built they did not have the maximum impervious surface limit.

Commissioner Williams questioned the ratio of the decking and the driveway. Mr. Tilley said that the bulk of the impervious surface reduction came from removing

some decking and the paving in the interior open court. Mr. Williams asked what would keep the homeowner from putting decking back in. Mr. Tilley said that they would need a building permit to do so.

Chair Hay asked if there is a City easement on any of the other six properties as there is with this property. Mr. Tilley responded that this easement only exists on this particular property. Chair Hay asked if the other six properties that are legally non-conforming wanted to become legally conforming would they have to come for a variance. Mr. Tilley said yes to become conforming they would have to pursue a variance. Principal Planner Burkey stated that there is another way that the lots could become legally conforming and that is to apply for planned unit development approval.

Chair Hay commented that he has heard indirectly that the property owners of the other six parcels are considering applying for a variance should this variance be granted for this parcel. Mr. Tilley replied that he was unaware of that comment.

Chair Hay opened the public hearing.

Allen Matos, 1018 Courtland Avenue, stated that his family owns the parcel adjacent to this development and they have some concerns in regards to the granting this variance.

Karen Serpa, 1974 Old Calaveras Road, reported that she had met with Mr. Leung and they have agreed to remove the oak tree that was her main concern. In regards to the variance, she asked the Commission to deliberate long and hard before approving it because a variance is a very serious decision.

Dave Richerson, 1920 Yosemite Drive, stated that his concern is the variance itself and the fact that the guidelines were there when the development was being planned and the calculations were not done correctly, caused the impervious surface exceedance.

Sylvia Leung, Applicant, stated that she personally met with the neighbors to try and understand their concerns and she believes that she has addressed all of their concerns.

Commissioner Burch asked if they knew that the impervious surface existed when they bought the property. **Raymond Leung** said that they did not know that the easement existed.

Motion to close the public hearing.

M/S: Burch/Montano

AYES: 4

ABSENT: 1 (Chua)

ABSTAIN: 2 (Nitafan and Sandhu)

Jonathan Leung, Senior at Milpitas High School, asked for an explanation of erosion. Assistant Planner Tilley explained what erosion is.

Commissioner Montano voiced her concern about the home's proximity to the creek. Ms. Montano said that she would not be voting for the variance.

Commissioner Burch said that she is always in support of keeping the hillsides undeveloped. Ms. Burch said that she would not vote in favor of this project.

Motion to deny Variance No. 508.

M/S: Burch/Montano

AYES: 2 (Burch, Montano)

NOES: 2 (Hay, Williams)

ABSENT: 1 (Chua)

ABSTAIN: 2 (Nitafan, Sandhu)

Motion Fails.

Motion to approve Variance No. 508.

M/S: Williams/Hay

AYES: 2 (Hay, Williams)

NOES: 2 (Burch, Montano)

ABSENT: 1 (Chua)

ABSTAIN: 2 (Nitafan, Sandhu)

Motion Fails.

It was noted that the project is denied due to failure to get a motion of approval passed.

Motion to continue the Hillside Site & Architectural Review to a date uncertain and to re-notice the public.

M/S: Burch/Montano

AYES: 4 (Hay, Burch, Montano, Williams)

ABSENT: 1 (Chua)

ABSTAIN: 2 (Sandhu, Nitafan)

Secretary Appointment

Principal Planner Steve Burkey was appointed to Planning Commission Secretary.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:35 PM to the next regular meeting of March 22, 2000.

Respectfully Submitted,

STEVE BURKEY

Secretary

KAREN RAMSAY

Recording Secretary

[top](#)

CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

February 23, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Burch, Montano, Sandhu, Chua, Nitafan

Absent: None

Staff: Barone, Burkey, Judd, Tilley, Rush, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, stated his concerns about Dave and Buster's referencing themselves as being in San Jose. Mr. Richerson said that the City should address the problem of Milpitas businesses referring to themselves as San Jose businesses.

Chair Hay asked staff to prepare a staff report on this issue.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of February 9, 2000.

Motion to approve the minutes of February 9, 2000 as submitted.

M/S: Nitafan/Williams

AYES: 7

ANNOUNCEMENTS

Planning and Neighborhood Preservation Director Barone said that she was pleased to announce that Steve Burkey has been promoted to the Principal Planner position and is now the main staff liaison to the Planning Commission.

Ms. Barone announced that the Planning Commission would be hosting a workshop for all of the Milpitas Commissioners on the Midtown Specific Plan. This meeting will take place on March 8, 2000 and will begin at 6:00 PM.

Commissioner Chua thanked staff for setting up the joint Fremont and Milpitas Planning Commission meeting last week. Ms. Chua said it was a very productive meeting.

Chair Hay commented that he sent a letter on behalf of the Milpitas Planning Commission to the Fremont Planning Director to thank them for their support.

Commissioner Burch announced that she attended the Diversity and Conflict Resolution Workshop and would recommend it to others.

Neighborhood Preservation Video

Planning and Neighborhood Preservation Director Barone presented a video on Neighborhood Preservation.

Chair Hay congratulated the Milpitas Community Advisory Commission for the efforts they have put into the Neighborhood Beautification Ordinance, noting that the Neighborhood Beautification Ordinance was first brought to the CAC by former Council Member Barbara Lee 7 1/2 years ago.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

There were no changes.

Motion to approve the agenda as posted.

M/S: Nitafan/Burch

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Principal Planner Burkey recommended that item no. 2 to be removed from consent and for item nos. 3 and 4 be added to the consent calendar.

Chair Hay asked if there were any objections from the Commission to adding items 3 and 4 to consent.

Commissioner Chua said that she would like item nos. 3 and 4 to remain on the agenda.

No items remain on Consent.

Level of Service Thresholds and Significance Criteria

Sr. Transportation Planner Oliva presented a report on the level of service thresholds and significance criteria for consideration of a staff recommendation to modify the CEQA threshold for a significant impact when analyzing cumulative traffic.

Commissioner Montano asked what this means in terms of projects that have already been approved. Mr. Oliva explained that his would not apply to projects that have already been approved. This would be a methodology that would be utilized for this McCarthy Ranch E.I.R. and other CEQA projects that they would be considering in the future.

Vice Chair Nitafan commented that if the long-term plans don't materialize then there would be a traffic problem. Can the short-term be considered with the long-term. Mr. Oliva replied that when specific projects come in they do the detail short-term analysis and identify where the impacts would be and then require the short-term mitigation from the projects as well as the long-term mitigation.

Commissioner Williams asked what provisions have been built into this analysis that would allow for varying local conditions. Mr. Oliva replied that the capacities could vary depending on roadway design.

Commissioner Sandhu asked how the criteria compares with other cities. Mr. Oliva said that they looked at the criteria based on the inputs that are on the Santa Clara County model.

Chair Hay asked if this is more accurate then using the methods of delay methodology. Mr. Oliva it is far superior for long range planning. Mr. Hay asked if Mr. Oliva is suggesting that they apply this to short-term traffic analysis as well as long-term. Mr. Oliva said no, just long term.

Vice Chair Nitafan asked for clarification on the project impact criteria, specifically, how could a project be solely responsible for an impact if an existing project has contributed to the unacceptable LOS. Mr. Oliva explained that this is looking fifteen or twenty years into the future and is a project to project comparison, so that finding can be made under a long-term condition.

Motion to recommend to City Council to adopt these LOS methodology standards and project impact criteria for long-term CEQA analysis for projects and plans within the City of Milpitas.

M/S: Nitafan/Burch

AYES: 7

PUBLIC HEARINGS

1. General Plan Amendment 2000-1, Zone Change No. 640, Zoning Ordinance Amendment & Development Agreement

Assistant Planner Judd presented a request to change 226+ acres from "Mixed Use" (MX) General Plan and Zoning designations to "Industrial Park" (MP-S)

designations, delete the Mixed Use (MX) General Plan and Zoning designations, and approve a Development Agreement. The project site is located west of I-880, between Dixon Landing Road and SR 237. Ms. Judd pointed out that there was a last minute revision to section 4.5 in the Development Agreement, which clarifies the timing in which McCarthy pays a fair share portion toward the cost of the Dixon Landing Road widening.

Commissioner Montano asked Ms. Judd to expand on recommendation no. 1 listed in the staff report. Ms. Judd explained that this is a recommendation to the City Council to adopt a Statement of Overriding Considerations regarding traffic and air quality impacts that were found in the supplemental EIR to be significant and unavoidable.

Commissioner Williams asked for clarification of special condition no. 2 that refers to the bus shelter page being deleted from the document. Mr. Williams said that a bus shelter can impact a sidewalk and questioned why this is being deleted. Ms. Judd said that the recommendation is to delete a design standard that addresses shelter aesthetic design and has nothing to do with the provision of bus shelters or their accessibility. Mr. Williams what enhanced bus shelters would look like. Ms. Barone explained that the VTA is in charge of the bus service that goes through the City of Milpitas and they have a standard shelter design, which is attractive.

Commissioner Chua asked how staff came up with 10% as the McCarthy Ranch fair share contribution. Ms. Judd replied that this was included in the original development agreement and was inadvertently left out when the development agreement was revised for tonight's meeting. Sr. Transportation Planner Oliva added that a 10% contribution is still considered reasonable for this project.

Ms. Chua questioned the wording in "findings no. 1". Ms. Judd explained that the CEQA guidelines require this finding to be made. Ms. Chua then questioned the wording of special condition no. 3, regarding building siting and pedestrian connections, and asked if this would go to the Planning Commission Subcommittee or to the full Planning Commission. Ms. Judd said that this would go to the full Planning Commission with each site development application.

Commissioner Montano asked if the MP industrial park district zoning also includes food processing. Principal Planner Burkey replied that no it does not. Ms. Montano asked who would be responsible for maintaining the trail. Ms. Judd said that has not been determined yet. Ms. Montano asked if pets would be allowed on this trail. Ms. Judd said that would need to be addressed in the joint use agreement to be established between the City and the Santa Clara Valley Water District. Ms. Montano asked if the temporary levee access is going to be the trail. Ms. Judd said that the temporary access path is labeled as such because the final path location will not be determined until parcel configuration in this area is known. The intent is to have this access path line up as closely with the northerly Irvine driveway as possible, which at the same time allowing flexibility in future parcel configuration

on the west side of McCarthy Boulevard.

Commissioner Burch asked if Highway Services has been considered such as hotels. Ms. Judd said that hotels are prohibited in this area per the settlement.

Commissioner Sandhu asked for clarification on what the recreational facilities would include. Ms. Judd said that the recreational facilities would include the access paths and ramps to the levee top trail and also the jogging trail with par course stations next to the sidewalk on the west side of McCarthy Boulevard. Mr. Sandhu asked what this development agreement would cost the City. Ms. Judd said that the development agreement reduces front yard building setbacks along minor streets and portions of McCarthy Blvd. and vests these approvals, standards and conditions for fifteen years.

Joe McCarthy, P.O. Box 361256, Milpitas, said that it has been a pleasure working with the planning staff and he appreciates all the time and effort that went into developing this.

Chair Hay stated that he liked the mixed-use project very much and he is sad that they are not able to move forward with that project.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Drive, said that he also likes the mixed-use project very much.

Motion to close the public hearing.

M/S: Burch/Nitafan

AYES: 7

Motion to recommend approval to the City Council the General Plan Amendment 2000-1, Zone Change No. 640, Zoning Ordinance Amendment & Development Agreement subject to findings and the revised design Guidelines with (3) special conditions, and to certify the final SEIR and Addendum, including the statement of overriding considerations (recommendation as listed on page 12 of the staff report), and the amended paragraph 4.5 in the development agreement.

M/S: Chua/Williams

AYES: 7

2. "S" Zone Application: 27 S. Main Street

Contract Planner Rush presented a proposal for an oral care facility located at 27 S. Main Street. Ms. Rush said that there is a recommended amendment to special condition no. 8a, which should read "Provide wall cross sections showing depth of the recessed windows and column treatments.

Chair Hay stated that he requested this project to be removed from the consent calendar due to Resolution 6932 that was passed by the City Council.

Commissioner Montano asked if the site plan is the same. Ms. Rush said yes it is.

Vice Chair Nitafan asked if the proposal for the fence would come back to the Planning Commission or the Subcommittee. Ms. Rush replied that the City has a streamlined process that allows fencing to be reviewed and approved by the Subcommittee. Mr. Nitafan suggested that a special condition be added to have the proposal for the fence come before the Planning Commission, since it would be adjacent to the City property.

The Commission agreed that the special condition would be added.

Commissioner Sandhu referred to special condition no. 21 and asked who pays for the relocation of utilities. Ms. Rush said it would be the responsibility of the project developer.

Commissioner Burch asked if staff is satisfied with the landscape plans. Ms. Rush said that there is a special condition that requires the landscape plan to be drawn and brought back before the Planning Commission Subcommittee.

Chair Hay opened the public hearing.

Jerry Grissom, Kyn/Hill Associates, 263-29 Street, San Francisco CA, stated that he appreciates the Commissions comments and the help they received from the Planning staff. Mr. Grissom said that they have made every attempt to stay within the guidelines that the Commission presented to them at the previous meeting and they wanted to stay within the California Mission style which is compatible to this area.

Commission Williams commented that he would like to commend the design and the doctors, whose service will be an asset to the community.

Commissioner Chua said that she agreed with Mr. Williams and thanked the applicant for working within the City's guidelines.

Commissioner Montano said that she appreciates that it is near the street and she really likes the architecture.

Commissioner Burch said she also appreciates the architecture.

Chair Hay thanked the applicant for the quick turn-around they received.

Dave Richerson, 1920 Yosemite Dr., said that he thinks it is a beautiful structure and everyone involved did a great job.

Motion to close the public hearing.

M/S: Burch/Williams

AYES: 7

Motion to approve subject to findings with (23) special conditions and the amendment of special condition no. 8a and the added condition that the proposal for fencing will come before the full Planning Commission.

M/S: Williams/Montano

AYES: 7

RECESS

Chair Hay called a 10 minutes recess at 8:40 PM

3. **Sign Ordinance Amendment 124.25/ Use Permit No. 1535**

Assistant Planner Tilley presented a request to amend to the Sign Ordinance to allow signs that move or have the illusion of movement at regional shopping centers (i.e. those in excess of 1 million square feet of building area) with approval of a Use Permit and a Use Permit for a moving sign for Dave & Buster's at the Great Mall.

Chair Hay said that when they approved Dave and Buster's he recalls that they also approved a moving sign, so is this a matter of conflict or is it how the Sign Ordinance currently reads. Mr. Tilley replied that he believes there was some discussion of having a Dave and Buster's sign move in some fashion and it has been implied that the approvals granted at that time did include the movement portion; however, that approval was not possible because of the current Sign Ordinance.

Commissioner Williams said that he recalls that there was some reference to rotation of the sign.

Commissioner Chua questioned how they could have approved the sign without a Sign Ordinance Amendment. Planning Director Barone stated that the Planning Commission could not have approved a moving sign because it would have been in violation of the Sign Ordinance. The applicants did describe a moving sign but it was never addressed as part of the application approval.

Commission Burch asked what would happen if they decide not to amend this Sign Ordinance. City Attorney Faubion replied that the Commission doesn't have any obligation to the proposed rotating sign.

Vice Chair Nitafan asked about having different regulations in excess of one million square feet. Mr. Tilley said that this provision is already an existing provision in the Sign Ordinance and staff felt it would be better to continue on with what the City Council and the Planning Commission had practice recently.

Commissioner Burch asked if there is any other shopping center besides the Great Mall that is larger than one million square feet. Mr. Tilley said no, there is not.

Commissioner Chua asked for clarification of what constitutes a moving sign. Mr. Tilley said it would be signs that physically or mechanically move or have the illusion of movement. Ms. Chua asked if there are any other signs in Milpitas that move or have the illusion of movement. Ms. Barone said that this issue came up with the Milpitas Square Shopping Center on Barber Lane. They have a reader board that changes messages and they were told that it couldn't be a constant moving line.

Commissioner Sandhu asked if the movement of a sign has been defined as far as movement per seconds. Mr. Tilley said, no it has not.

Commissioner Williams commented that fifteen feet in diameter is a lot of mass to be moving and with the type of support structure it has the Dave and Buster's sign certainly won't be moving that fast.

Commissioner Chua asked about which directions the sign would be visible. Mr. Tilley said that the sign would be visible from the immediate north and possibly from Great Mall Parkway to the west.

Commissioner Montano asked who would be responsible for maintaining the sign. Mr. Tilley said that it would be in the best interest of the Great Mall and Dave and Buster's to keep the sign maintained. Ms. Barone said that the Sign Ordinance requires all signs be kept in good repair.

Tim Ridner, Pyramid Group 15935 El Pajaro Court, Morgan Hill, representing the applicant said that he would be happy to answer any questions.

Commissioner Montano said that she is concerned about the visual impact to Parc Metropolitan Housing. Mr. Ridner said that when they relocated they presented that sign concept at that time, which was reviewed with Parc Metropolitan.

Principal Planner Burkey stated that prospective homebuyers in the Parc Metropolitan area would be able to see the existing sign and be fully aware of it.

Mr. Ridner said that he made it a point to tell the Great Mall management that they need to turn the sign off.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Drive, said that he doesn't have a problem with the sign or the rotation or the amendment. Mr. Richerson suggested that an inclusion be added to the amendment that no sign will bear the name of another city.

Motion to close the public hearing.

M/S: Nitafan/Williams

AYES: 7

Chair Hay commented that he has visited Dave and Busters twice in the last week and it is a beautiful facility.

Commissioner Williams said that from his observation that actual visual impact is probably less than 45 degrees.

Commissioner Chua said that one reason she will not approve this amendment is because of the residents of Parc Metropolitan, also there is a reason why there is a Sign Ordinance and there is a reason why this portion of the Sign Ordinance has not been amended since 1978.

Vice Chair Nitafan said that the amendment should not be limited to just centers with over 1 million square feet, it should be decided on a case by case basis.

Commissioner Burch stated that she doesn't think the Sign Ordinance should be changed, it would set precedence and they would have to approve other moving signs as well.

Commissioner Montano said that she likes the sign because it complements the area.

Commissioner Sandhu said he likes the sign, however he thinks it might affect the quality of life for Parc Metropolitan residents, therefore he is not in favor of amending the Sign Ordinance.

Chair Hay said that he doesn't see the rotating sign as a distraction anymore than if it didn't rotate and that he is supportive of this being a moving sign.

Motion to deny Sign Ordinance Amendment 124.25.

M/S: Nitafan/Burch

AYES: 4 (Nitafan, Burch, Sandhu, Chua)

NOES: 3 (Hay, Montano, Williams)

Motion to recommend to City Council denial of Use Permit No. 1535.

M/S: Nitafan/Burch

AYES: 4 (Nitafan, Burch, Sandhu, Chua)

NOES: 3 (Hay, Montano, Williams)

4. Use Permit No. 1167.17-Amendment

Assistant Planner Tilley presented a proposal requesting an amendment of a project condition relating to the submittal of an updated circulation analysis located at the Great Mall.

Chair Hay questioned why they are closing the public hearing and then re-advertising this. Mr. Tilley explained that they don't know exactly when it would come back to the Planning Commission in the next three months. Staff wants to make sure that the residents of Parc Metropolitan are fully aware of the public hearing date.

Chair Hay opened the public hearing.

Tim Ridner, Pyramid Group, stated that with respect to the study, they have done a lot of work and there are two issues, one is a large use that they would have on one of the out parcels, the other issue is the discussions with Valley Transportation Authority with respect to their intra-modal station within the Great Mall. Mr. Ridner said that in reference to the study, after having discussions with staff, they realize that any work that they do today to finalize that report could be well invalidated in the near future by submission of these two applications.

Rich Green, representing Parc Metropolitan, referring to the closure of Comet Drive, stated that they understand the conditions that are pending. Mr. Green said that they also don't want to see a delay and would like to see a study concluded in the near future.

Motion to close the public hearing.

M/S: Burch/Nitafan

AYES: 7

Motion to amend condition No. 4 of Use Permit No. 1167.17-Amendment to require a circulation study be submitted for review and approval by the Planning Commission by May 24, 2000.

M//S: Nitafan/Montano

AYES: 7

5. Abel Plaza Sign Review (6 Month)

Contract Planner Rush presented a proposal to review on going sign violations at Abel Plaza.

Chair Hay said that he has noticed a huge improvement out there.

Motion to note receipt and file.

M/S: Nitafan/Burch

AYES: 7

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:45 PM to the next regular meeting of March 8, 2000.

Respectfully Submitted,

VALERIE BARONE

Secretary

KAREN RAMSAY

Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

February 9, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Burch, Montano, Sandhu, Chua, Nitafan

Absent:

Staff: Barone, Burkey, Tilley, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of January 26, 2000.

Motion to approve the minutes of January 26, 2000 as submitted.

M/S: Nitafan/Williams

AYES: 7

ANNOUNCEMENTS

Associate Planner Burkey announced that at the last Planning Commission meeting Commissioner Burch asked if Tasman Drive is a smart corridor and staff's reply is yes Tasman Drive was a smart corridor.

Mr. Burkey announced that the Milpitas Traffic Engineer reported that in regards to the timing of the signals at the Tasman McCarthy Intersection, there has been several problems with getting the proper timing set and they are working on resolving the problem.

Mr. Burkey reminded the Planning Commission that there would be a Milpitas and Fremont joint Planning Commission meeting on February 16, 2000 at 6:30 PM. This meeting will be held at the Great Mall.

Mr. Burkey pointed out to the Commission an agenda for the Milpitas Streetscape Master Plan Task Force Committee, which will be holding their first meeting tomorrow evening.

Chair Hay stated that the Commission had before them Resolution No. 486 which was adopted at the last Planning Commission meeting and has been sent on to Governor Gray Davis' office.

Commissioner Burch thanked staff for the report on Tasman and McCarthy intersection.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Sandhu said he would abstain from voting on consent item no. 2 due to a conflict of interest.

Vice Chair Nitafan said that he would abstain from voting on consent item nos. 1 and 2 due to a conflict of interest.

Mr. Burkey pointed out that there are some changes to the conditions of approval for consent item no. 1, which have been agreed upon by staff and the applicant. Mr. Burkey also pointed out that the applicant for consent item no. 2 has submitted a letter to acknowledge the need for further studies for the project which will be continued indefinitely.

Commissioner Chua said that she would abstain from voting on consent item nos. 1 and 2 due to a conflict of interest.

Commissioner Montano asked if item no. 2 would be coming back to the Commission or to the Subcommittee. Mr. Burkey said that it would be coming back to the full Planning Commission.

Vice Chair Nitafan asked if item no. 1 is a two parcel residential site. Mr. Burkey replied that a portion of the site has been rezoned. Ms. Barone added that there is a residential lot involved.

Chair Hay opened the public hearing on consent item nos. 1, 2 and 3.

Motion to close the public hearing on consent item nos. 1, 2 and 3.

M/S: Nitafan/Burch

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

1. **MINOR TENTATIVE MAP** (continued from January 26, 2000): A request to subdivide a +/-7.4 acre parcel into two parcels with areas of ± 3.5 acres and ± 3.9 acres at 1550 Gladding Court (APN 092-08-072). Applicant: Jack Cox. Project Planner: David Tilley, 586-3278. **(Approve subject to findings with (13) special conditions).**
2. **HILLSIDE SITE & ARCHITECTURAL REVIEW** (continued from January 26, 2000): A request to develop a 5,891 square foot single family residence on Lot 7, Quince Lane (APN 029-59-009). Applicants: Raymond & Sylvia Leung. Project Planner: David Tilley, 586-3278. **(Close the public hearing and continue indefinitely)**

- 3. USE PERMIT NO. 1533:** A request install cellular antennas at 500 E. Calaveras Blvd. Applicant: Cellular One. Project Planner: David Tilley, 586-3278.
(Approval subject to findings with (4) special conditions).

M/S: Burch/Williams

Item 1. AYES: 5 (Hay, Burch, Montano, Sandhu, Williams) ABSTAIN: 2 (Nitafan, Chua)

Item 2. AYES: 4 (Hay, Burch, Montano, Williams) ABSTAIN: 3 (Nitafan, Chua, Sandhu)

Item 3. AYES: 7

NEW BUSINESS

4. Resolution in Support of Flood Protection Projects

City Engineer McNeely presented a recommendation that the City Council urge public support of Santa Clara Valley Water District's proposed tax assessment extension and to also ask the District to give the Calera Creek improvement project a high priority.

Chair Hay stated that the bottom line is that, absent this measure being approved by the public, the SCVWD would not be able to maintain its current level of creek maintenance for the county. Mr. McNeely said that is correct.

Commissioner Chua said that she has concerns about supporting the ballot without knowing the exact wording. Mr. McNeely explained that the proposed funding is described in the booklet that was given to the Commission.

Commissioner Montano asked where the water comes in from. Mr. McNeely explained that the water comes in from Anderson Reservoir and Coyote. Ms. Montano asked how this would affect the Hetch Hetchy. Mr. McNeely said that it would affect the Hetch Hetchy water rates, approximately a 7% increase this year. Mr. McNeely pointed out that the water rates are separate from the flood control, which comes in on the property tax.

Vice Chair Nitafan questioned why there was no mention of Berryessa Creek. Mr. McNeely explained that there are three creeks that primarily affect Milpitas and the Berryessa Creek is one of them. Mr. McNeely said that the Berryessa Creek could be included as well as the upper Penitencia Creek.

Motion to endorse this resolution and to include the Berryessa Creek and upper Penitencia Creek.

M/S: Nitafan/Williams

AYES: 7

5. Appoint Planning Commission Representative Alternate to Flood Planning Committee

Associate Planner Burkey asked for volunteers to represent the Flood Plain Planning Committee.

First Appointee: Evelyn Chua

Alternate Appointee: Debbie Burch

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:30 PM to the next regular meeting of February 23, 2000.

Respectfully Submitted,

VALERIE BARONE
Secretary

KAREN RAMSAY
Recording Secretary

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CITY OF MILPITAS

APPROVED

PLANNING COMMISSION MINUTES

January 26, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Nitafan, Burch, Montano, Sandhu, Chua, Williams

Absent:

Staff: Barone, Burkey, Tilley, Faubion, Ramsay, Rush, McNeely

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Althea Polanski, President of the School Board, 2083 Mesa Verde Drive, stated that she is the Chairperson for this years Milpitas Relay for Life in conjunction with the American Cancer Society. This years relay will be held at the Milpitas Sports Center on June 23 and 24, 2000. Ms. Polanski said that any support would be greatly appreciated and encouraged the Planning Commission to participate.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of January 12, 2000.

Commissioner Chua pointed out that page 9, paragraph 3 should state that the Parks and Recreation Commission did recommend the Kozy Kitchen as a cultural resource building, however, they did not feel it was worthy of preservation.

Commissioner Burch said she would like to add to page 8, last paragraph that she felt the Kozy Kitchen fit the criteria for a cultural resource as it was a political and social resource.

Motion to approve the minutes of January 12, 2000 as amended.

M/S: Nitafan/Burch

AYES: 7

ANNOUNCEMENTS

Associate Planner Burkey announced that the City Council at its meeting of January 18, 2000, approved the Hillside residence on Country Club Drive in accordance to the Planning Commission's recommendations and findings

Mr. Burkey announced that the City Council declined to designate the Kozy Kitchen as a cultural resource which was in the keeping with the Planning Commission's recommendations, and also noted that they wanted to have a historic display as a condition of a future building on this site.

Lastly, Mr. Burkey announced that the City of Milpitas and the Community Advisory Commission would be holding a Community Celebration, which is a kick-off for the Neighborhood Beautification event.

Chair Hay wished the City of Milpitas a Happy 46th Birthday and stated that the Milpitas was incorporated as a City on January 26, 1954.

Commissioner Burch asked if staff would check the timing of the traffic lights at the intersection of Tasman and McCarthy.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Nitafan/Williams

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Commissioner Sandhu said that he would abstain from voting on consent calendar item no. 2 due to a conflict of interest.

Commissioner Chua said that she would abstain from voting on consent calendar items 2

and 5 due to a conflict of interest.

Vice Chair Nitafan said that he would abstain from voting on consent calendar item 2 due to a conflict of interest.

Chair Hay requested consent calendar item no. 2 to be removed from consent.

Commissioner Burch requested consent calendar item no. 3 to be removed from consent.

Chair Hay opened the public hearing on item nos. 4 and 5.

Motion to close the public hearing on consent item no. 4.

M/S: Nitafan/Williams

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 4. USE PERMIT NO. 1496:** Six-month review of odor generation and garbage handling at 10 South Abbott Avenue ("Al-Hayat Foods"). Applicant: Umar Hayat. Project Planner: David Tilley, 586-3278. (**Approve note receipt and file with no further action required**).
- 5. MINOR TENTATIVE MAP:** A request to subdivide a +/-7.4 acre parcel into two parcels with areas of +/-3.5 acres and +/-3.9 acres at 1550 Gladding Court (APN 92-08-072). Applicant: Jack Cox. Project Planner: David Tilley, 586-3278. (**Continue to February 9, 2000 meeting**).

PRESENTATIONS

Senate Constitutional Amendment No. 3 (SCA3)

Vice Mayor Lawson gave an informational presentation on SCA3 and proposed Planning Commission Resolution in support of SCA3.

Chair Hay thanked Vice Mayor Lawson for his presentation and stated that many of the projects that Milpitas has approved are predicated on a future action to be taken particularly on Montague Expressway. Mr. Hay said that the City has put in large sums of dollars for the widening of Montague and as they have approved projects they have asked developers to pay their fair share of dollars towards the widening and the impact, but it is not enough to get the job done. Mr. Hay said that as a taxpayer he would like the opportunity to vote on whether or not they should have a majority vote and also to vote on whether they want to extend that sales tax.

Mr. Hay went on to say that he has always been a great supporter of Proposition 13, however, times change and they have reached a point where circumstances in the city have become critical and it is time that the majority of people should have the opportunity to address the issues that impact them.

Commissioner Montano questioned which projects would receive funding if this is approved. Mr. Lawson explained that at this point the Constitutional Amendment would have to pass Statewide in order for them to place any funding on the ballot.

Commissioner Sandhu asked what the position of other cities is on this amendment. Mr. Lawson said that most other city officials have been very supportive of this amendment.

Vice Chair Nitafan asked if this amendment passes, would they lose the link of specific projects to specific tax. Mr. Lawson said that his understanding is that the Constitutional Amendment does not create any new tax or extend any tax or address any projects at this point.

Chair Hay read the draft resolution.

Motion to adopt Resolution No. 486 in support of Senate Constitutional Amendment 3.

M/S: Nitafan/Burch

AYES: 7

PUBLIC HEARINGS

1. "S" Zone Approval and Conditional Use Permit 1530

Project Planner Rush presented a proposal for a request to construct a professional office building for oral care facilities and parking reduction, located at the southwest corner of Carlo and Main Street.

Vice Chair Nitafan referring to proposal "B", asked if staff is aware of an entrance on the City lot. Ms. Rush said that proposal "B" would not be using the City lot.

Commissioner Sandhu asked what type of business is oral care. Ms. Rush replied that the applicant could better answer that question.

Commissioner Williams, referring to the Main Street revitalization activity, said that proposal "A" would eliminate some of the concepts that have been discussed that would utilize the City property.. Ms. Rush replied that Proposal "A" would be brought before the City Council and what is before the Planning Commission is strictly review of the site and design of both proposals.

Commissioner Chua asked if it is in the Planning Commission's purview to make recommendations on the ultimate use of the city lot. Associate Planner Burkey replied that in this situation the applicants are preparing two alternative plans, both of which need to get the Commission's approval and comments, that way the Council will be able to see what the private development results might be. Ms. Chua asked if Council has requested for staff to come up with a proposal on that piece of property. Mr. Burkey said that this site is a small portion of the Midtown Plan area and the appropriate use of that site will be part of the Midtown Plan.

Commissioner Chua asked if they can require additional improvements to the park such as plaques or statues. Ms. Rush pointed out that if they require any additional

improvements to the city lot unless there is a nexus with the oral care building. Ms. Chua remarked that the CAC recommended that this piece of property be used as a monument as a gateway to Main Street or to honor someone, which was not taken into consideration in proposal "A". Ms. Rush said that the CAC recommendation would be forwarded on to the City Council.

Mr. Burkey explained that even though proposal "A" could limit the City's entire spectrum of what they could do with the property, it does not limit the City from doing anything with the property.

Chair Hay said that they can establish a preference, such as "A" or "B" or both but they can not tag a condition on "A" or "B" relating to the sale of the property. City Attorney Faubion responded that Chair Hay is correct, that would not be in the purview of the Planning Commission.

Commissioner Montano said that there was a survey a while back regarding the City selling that park to a private entity. Ms. Rush said that the survey Ms. Montano was referring to was headed up by the Community Advisory Commission and the comments that they received from the community was quite varied and the majority of the people had communicated a desire to keep that property within the City. Ms. Montano said that she is having a difficult time deciding because it is like putting the cart before the horse.

Vice Chair Nitaфан asked if the City has the ability to develop the site as a park. Ms. Rush said that is correct.

Commissioner Chua said that because they don't know what the goal or objective is for that piece of property, is there another alternative such as wait until we know exactly what the objective of this piece of land is. Mr. Burkey replied that the Council may decide after seeing the information from the CAC and the recommendations from the Planning Commission. Mr. Burkey said that they would like to move ahead with this and get a recommendation to the Council showing them two proposals.

Chair Hay said for clarification purposes, based on what was advertised to the public, can the public hearing address the issue of a recommendation on whether to sell or not to sell that piece of property based on what they have noticed to the public. City Attorney Faubion informed the Commission that, that would not be an appropriate discussion for this hearing and that they need to focus on the issues that are clearly Planning Commission related.

Chair Hay said that he wants to be careful about addressing the question as it ties in with the notice to the public. City Attorney Faubion stated that the Planning Commission needs to assume that the applicant controls the entire site, and that the applicant's project is as shown and discuss it at that level.

Commissioner Burch said that it doesn't seem appropriate to make this decision without having concrete piece of information in front of us.

Chair Hay asked the City Attorney if the public hearing could be continued. Ms. Faubion replied yes, the public hearing could be continued. Ms. Faubion pointed out that another

option would be to deny the project without prejudice.

Commissioner Burch asked if proposal "A" could be combined with proposal "B" and questioned whether there would be a FAR issue. Ms. Rush replied that the width of the property would be constrained where you would not be able to have any parking stalls along that south property line which would eliminate most of the parking provided. If there was that size of a building completely on proposal "B" there would be no way to have a two-way drive aisle which would be required.

Vice Chair Nitafan questioned whether it is still the purview of the Planning Commission to decide the use of the land regardless of what type of building it is. Ms. Rush said that is correct, the Planning Commission decides on the site and architectural review of the building and landscaping, the site design and the use permit required for the parking reduction.

Commissioner Chua asked if there was any thought given to doing proposal "A"'s on proposal "B"'s site plan with a reduction in square footage, and if so how much of a reduction would that be. Ms. Rush stated that the applicant could better answer that question because that wasn't an option was not presented.

Tim Shahbazian, 75 S. Milpitas Blvd., noted the history and services of his practice and said that they feel that this project would allow them to continue to serve the Milpitas community. The issues of egress into the adjacent property is solved by allowing them to have the driveway through the property presently owned by the City. Mr. Shahbazian said that in regards to the parking reduction, they only work on one patient at a time and don't have the employees that a dental office would have. In regards to proposal "A" vs. proposal "B", consider the fact that they would bring to that corner a pride of ownership and would be strongly invested in maintaining the appearance of that corner and they are willing to make this project consistent with the needs that Milpitas has for that area.

Commissioner Williams said that relative to parking and proposal "A", do the numbers represent both doctors' activities simultaneously. Mr. Shahbazian said no, he and Dr. Minkon do not work in the same location at the same time.

Vice Chair Nitafan asked if proposal "B" is chosen, are they willing to design the building like proposal "A". Mr. Shahbazian said they would do what is required by the Planning Commission.

Commissioner Chua stated that her concern is the quality of the maintenance of the landscape.

Chair Hay opened the public hearing.

Dave Richerson, 1920 Yosemite Drive, stated that the four choices before the Commission are to approve "A" and "B", "A" only, "B" only or none at all. Mr. Richerson said that it is a tough issue and he hopes that the Planning Commission takes into consideration the parking issues.

Motion to close the public hearing.

M/S: Burch/Nitafan

AYES: 7

Vice Chair Nitafan stated that there is a parking issue with proposal "A" so he would have to go with proposal "B".

Motion to approve proposal "A" and proposal "B" to the City Council, recognizing that proposal "A" does not meet the parking requirement, and that the Planning Commission take a straw vote as to their personal preference.

M/S: Williams/Nitafan

Commissioner Burch said that she likes the building architecture of proposal "A" and thinks it is one of the best designs she has seen; however, she is uncomfortable voting to approve either one of the proposals. Ms. Burch said she believes that proposal "A" influences the City Council to sell that land and she is opposed to that. If proposal "A"'s architecture could be put on proposal "B"'s site plan she would be more inclined to vote for proposal "B". Ms. Burch went on to say that in proposal "A", she doesn't like having a driveway coming off of Carlo Street cutting through the parkway, which could be a safety issue. If "A" were approved, she would like a condition added that the park would always remain. Lastly, Ms. Burch said that she prefers the option to deny both projects without prejudice.

Chair Hay questioned whether the parking reduction goes with the use permit and not the property. Ms. Rush said that the use permit rides with the land.

Commissioner Sandhu said that he likes the oral care facility and is in support of it but he has parking concerns. When comparing both proposals, he is in support of proposal "B".

Commissioner Montano said that she agrees with Ms. Burch, and she would also deny this project without prejudice.

Commissioner Chua said that she also agrees with Ms. Burch and Ms. Montano and would deny the project without prejudice.

AYES: 3 (Nitafan, Sandhu, Williams)

NOES: 4 (Hay, Burch, Montano Chua)

Motion fails.

Motion to deny proposal "A" and proposal "B" without prejudice.

MS: Burch/Montano

Chair Hay said that he is in support of this motion because by recommending both proposals they would be suggesting to the City Council that they feel it fine to sell that piece of property and he doesn't want to see it sold.

Commissioner Williams said that he is denying the motion based on the guidelines that

the Planning Commission is suppose to look strictly at the architecture and the landscaping and usage of parking.

Vice Chair Nitafan said that he does not support the motion because it is within the Planning Commissions purview to decide land use and he is in support of proposal "B".

AYES: 5 (Hay, Burch, Montano, Sandhu, Chua)

NOES: 2 (Nitafan, Williams)

RECESS

Chair Hay called 10 minute recess at 9:00 PM.

2. Hillside Site & Architectural Review

Assistant Planner Tilley presented a proposal to develop a 5,891 square foot single family residence on Lot 7, Quince Lane.

Vice Chair Nitafan and Commissioners Chua and Sandhu abstained from voting on this project due to a conflict of interest.

Commissioner Burch asked Mr. Tilley to summarize a letter that was given to the Planning Commission in regards to this project. Mr. Tilley gave a summary of the letter from Mr. Serpa, which states concerns regarding the landscape plan of the project.

Chair Hay asked if this building is in the center of the buildable portion of the lot. Mr. Tilley said because the buildable portion is what is at the top of the lot the lower portion of the lot is not buildable.

Chair. Hay said that in Mr. Serpa's letter he states that the part of the lot that has the City easement for the collection pond is paved. Associate Planner Burkey responded that he is certain that there is some paving in that area that is associated with the City's use of the easement. Mr. Hay said that it would need to be counted as a pervious surface.

Chair Hay pointed out that Mr. Serpa questioned the property line based on surveys and deeds, has staff looked into that issue. Mr. Tilley said that they have been referring to the subdivision map itself and the legal description would refer back to Lot 7 of that particular tract and staff is confident that the boundaries of property as it is shown is correct.

Commissioner Williams asked if the 1985 geological report conducted includes all of the lots 1 through 7 under the condition of it being utilized eventually for residential dwellings. Mr. Tilley said that is correct. Mr. Williams asked if the report contained any exclusions or stipulations as far as any types of unique structures. Mr. Tilley replied that the report did not specifically exclude anything such as a pool, it provides specific recommendations in terms of where things should be located and subsurface expiration, grading and foundations that should be applied.

Commissioner Montano asked for clarification regarding the Hayward fault running through the property. Mr. Tilley said that the Hayward fault is located in the general vicinity of the property, however they are confident that the seismic issues are minimal.

Sylvia Leung, 678 Cypress Avenue, Sunnyvale, CA, stated that they came up with this design after many months of working and it is a surprise to her to hear for the first time tonight that there is a letter of concern.

Chair Hay opened the public hearing.

Steve Yang, said that he has been practicing architecture in the valley for past twenty years and the numbers for the height of the house indicate that the house won't block their view. Mr. Yang said that in regards to the oak tree, if there are concerns about it they would be willing to change it. Mr. Williams asked if they would consider changing the type of tree and it's placement. Mr. Yang said that yes they would consider doing that but that should be referred to the landscaper.

Dave Richerson, 1920 Yosemite Drive, said he is pleased with the whole design and the tree and landscaping issues could probably be worked out with the property owners.

Raymond Leung, owner, stated that it doesn't matter to him what type of tree they put in as long as it provides shading. Mr. Leung said that the experts said that it is safe to build a house on that lot and he doesn't understand why it is being questioned.

John Luk, 2165 N. Park Victoria, stated that he thinks this is a beautiful project and is impressed with the architecture.

Karen Serpa, owner of property behind the project, stated that she is not in opposition to this home but would like to protect her rights as a hillside owner. Ms. Serpa said that the only thing she asks is that in the spirit of compromise they can have the best situation in both locations. There has been a lot of controversy regarding Quince Lane.

Motion to close the public hearing.

M/S: Burch/Williams

AYES: 4 (Hay, Burch, Montano, Williams)

ABSTAIN: 3 (Nitafan, Sandhu, Chua)

Motion to recommend approval to the City Council with the added condition to have a plan to add a tree that would be agreed upon by all parties concerned and to present that plan to staff.

M/S: Williams/Montano

Chair Hay said that he is concerned that there seems to be so much confusion between the neighbors and he supports Commission Williams motion. Mr. Hay commented that when it comes to hillside ordinance his interpretation is fairly strict and his votes have always reflected that.

Commissioner Burch would like to be sure that all of their difficulties and concerns are addressed.

Commissioner Williams said that after reading section 45.17-3 he now has a clear

understanding as to the issues that Mr. Hay raised and the complexity of it, therefore he would like to rescind his motion.

Chair Hay said that there are some unanswered questions here and the property owners need to get together on this and the City needs to get back to the Planning Commission with their legal interpretation of the ordinance or come back with a literal interpretation of how this project complies with the City Ordinance.

Motion to reopened the public hearing to the next meeting of February 9, 2000

M/S: Burch/Williams

AYES: 4 (Hay, Burch, Montano, Williams)

ABSTAIN: 3 (Nitafan, Sandhu, Chua)

3. Use Permit No. 1532

Assistant Planner Tilley presented a proposal requesting to operate a restaurant with 26 seats, located at 1679 N. Milpitas Blvd. (Crescent Square Shopping Center).

Commissioner Burch said that she noticed that the dumpster is right next to the mobile home park and asked how close the dumpsters would be to the homes. Ms. Rush replied that there are no requirements for the dumpsters to be relocated away from the mobile home property line. City staff felt that the wall mitigated most of the issues as far as noise impacts. They are required to come back for a six-month review to review odor and noise issues. Ms. Burch said that the last page of the plans show no roof screens for the air conditioners and asked if they are visible from all sides. Mr. Tilley said that it is a manner of standard procedure that roof screens be put in place, which is enforced by our Building staff.

Chair Hay opened the public hearing.

Unas Chan, 1156 Jacklin Road, said that she is representing the applicant. Ms. Chan said that they believe this coffee shop would be of good use to the neighbors. They discussed this with the neighbors at the mobile home park and the neighbors said they would like to see a coffee shop in the area.

Motion to close the public hearing.

M/S: Nitafan/Burch

AYES: 7

Motion to approve Use Permit No. 1532 subject to findings with (8) special conditions.

M/S: Chua/Nitafan

AYES: 7

STAFF PRESENTATION

6. Floodplains in Milpitas

City Engineer McNeely gave a presentation on information regarding FEMA mapped floodplain areas.

Vice Chair Nitaфан asked when they would be receiving new maps. Mr. McNeely said they should receive new maps by March. Mr. Nitaфан asked after you get the map how long does the process take. Mr. McNeely replied that it is a very lengthy process. The requirements of the Federal Government are quite stringent and it requires the water district to find the funding and perform the work on the creek. If it is just a matter of mapping it could be done in six-months, however, this is not just a matter of mapping.

Mr. Nitaфан said that some of the Milpitas citizens have asked how often the maps are revised. Mr. McNeely said they are revised about every ten years.

Chair Hay commented that he bought a house in 1998 that was reclassified as a flood zone area six-months after he purchased the home. What is the status of correcting the flood problem in that area. Mr. McNeely explained that it would require about 1 million dollars of work on Calera Creek to correct that problem.

Commissioner Montano asked if the residents have access to the map on the City's web-site. Mr. McNeely said that it is not available on the City's web-site yet. Ms. Montano asked what the recommendation is for in-fill. Mr. McNeely said that there are specific areas and depths.

Commissioner Williams said that he noticed that at the outlet of Great Mall Parkway Road there is an accumulation of debris building up and asked if there are any plans to clean it up. Mr. McNeely said yes and no, however the creek is the responsibility of the Santa Clara Valley Water District, but he would look into that issue.

Commissioner Chua said that she also lives in a flood zone area and asked if the funding to resolve the issue would be coming from the SCVWD. Mr. McNeely said yes that is correct. Ms. Chua asked if the SCVWD has a plan for correcting the flood problems. Mr. McNeely said yes they will be having several outreach meetings to explain their exact plan. Ms. Chua said that she would be interested in seeing the plan that they have for Milpitas.

Commissioner Burch commented that maybe they should send this as a recommendation to the City Council.

Mr. Burkey said that staff can come back with a draft resolution.

Mr. McNeely said that the SCVWD would be willing to come and discuss these issues with the Planning Commission. Mr. Hay requested that it be agendized.

Mr. Burkey said that they could come back to the Commission with a draft for the City Council and bring their attention to the situation.

The Commission agreed it would be agendized for the February 9, 2000 meeting.

Dave Richerson, 1920 Yosemite Drive, it is a difficult issue dealing with different agencies and different funding. The water district is responsible for maintaining these

creeks, and the houses that were not in a flood plain but that now are in a flood plain are there because of the action or lack of action of the party responsible for maintaining those structures.

7. Streetscape Master Plan Task Force

Associate Planner Burkey presented a request to select a Planning Commission representative for the Task Force.

Chair Hay asked for volunteers from the Commission.

The Planning Commission decided that they would take turns being a Task Force representative. Vice Chair Nitafan said he would go to the first meeting and Commissioner Burch said that she would attend one of the meetings.

Chair Hay reminded the Commission that there is a joint meeting with the Fremont Planning Commission scheduled for February 16, 2000, at 6:30 pm.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:15 PM to the next regular meeting of February 9, 2000.

Respectfully Submitted,

VALERIE BARONE
Secretary

KAREN RAMSAY
Recording Secretary

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CITY OF MILPITAS APPROVED PLANNING COMMISSION MINUTES January 12, 2000

PLEDGE OF ALLEGIANCE

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

ROLL CALL

Present: Hay, Williams, Burch, Montano, Sandhu, Chua, Nitafan

Absent:

Staff: Barone, Burkey, Tilley, Rush, Faubion, Ramsay

PUBLIC FORUM

Chair Hay invited members of the audience to address the Commission on any topic not

on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

Dave Richerson, 1920 Yosemite Drive, stated that at its next meeting the City Council would be looking at the flag policies for the City, and he encouraged everyone to attend and state their views on the subject.

APPROVAL OF MINUTES

Chair Hay called for approval of the minutes of the Planning Commission meeting of December 8, 1999.

Motion to approve the minutes of December 8, 1999 as submitted.

M/S: Nitafan/Williams

AYES: 7

ANNOUNCEMENTS

Chair Hay announced that he and Commissioner Chua were re-appointed to the Planning Commission for a period of three years.

Planning and Neighborhood Preservation Director Barone announced that the City of Milpitas and the Community Advisory Commission would be holding a Community Celebration to kick-off and celebrate the adoption of the Neighborhood Beautification Ordinance. This event will be held at the Community Center on Wednesday, February 2, 2000 at 7:00 PM.

Ms. Barone announced that at Chair Hay's request, she would comment on the recent actions the City of San Jose has taken to deal with the "monster home" issue. Ms. Barone said that San Jose has adopted some Floor Area Ratio standards that are tied to design review requirements with the maximum FAR for residential lots being 65%. If the FAR is below a certain level they give a counter staff review, at the next level there is a formal staff review process and at the highest level it would go before the City Council for approval.

Commissioner Williams announced that he had the opportunity to attend the US Department of Commerce Open House of the Census office in Sunnyvale. Mr. Williams said that the Mayor of Milpitas, as well as the Mayors of Sunnyvale, Mountain View and Los Gatos were present and each gave a speech on the importance of the Census and Mayor Manyan shared his own vision of how the City of Milpitas can participate.

Commissioner Chua thanked the City Council, for their unanimous support, trust and guidance on her re-appointment to the Planning Commission and thanked the Planning Commission for their open discussion on issues, and lastly but not least the Planning staff for their professional support.

Commissioner Sandhu announced that on behalf of the Sikh Foundation of Milpitas he would like to invite all of the residents of Milpitas to participate in the Gurbani program on January 23, 2000 at the Milpitas Senior Center from 10:00 AM to 2:00 PM.

Vice Chair Nitafan said that some Milpitas citizens voiced concern that there are several Milpitas residential areas that are designated flood zones and he would like to know what efforts the City is making to improve this issue. Chair Hay commented that this is a fairly complex issue that has impacts in different areas in the City, therefore, would it be satisfactory for staff to come back with a comprehensive report on the flood zone. Mr. Nitafan said yes, that would be satisfactory. Ms. Barone said that she would be happy to provide that report, stating that Milpitas was recognized at the last Council meeting for coming so far in their efforts to do the best by flood protection and Milpitas residents that are in flood zones pay less than residents from other jurisdictions because of their classification rating.

Vice Chair Nitafan announced that on March 18, 2000 the Knights of Columbus will be honoring the Citizen of the Year at the Milpitas Community Center.

Chair Hay announced that there has been a lot of media talk regarding the Governor's position on Senate Constitutional Amendment 3. This Amendment, if passed, would be on the ballot in November and would provide that only a 50% vote would be needed to extend an existing transportation sales tax.

Mr. Hay pointed out that the potential impact on Milpitas could be extreme and requested that staff provide the Planning Commission with a report on the possible impacts this could have on Milpitas along with a resolution so they could take a position on it one way or another.

APPROVAL OF AGENDA

Chair Hay called for approval of the agenda.

Planning and Neighborhood Preservation Director Barone requested that agenda item no. 1 to be moved to the end of the agenda.

There were no objections.

Motion to approve the agenda as posted.

M/S: Nitafan/Montano

AYES: 7

CONSENT CALENDAR

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to add or remove any consent calendar item.

Planning and Neighborhood Preservation Director Barone requested that agenda item no. 7 be added to the consent calendar.

There were no objections.

Chair Hay opened the public hearing on consent item nos. 2, 4, 5, 6

There were no speakers.

Motion to close the public hearing on consent item nos. 2, 5, 6 and to continue the public hearing on item no. 4 to January 26, 2000.

M/S: Nitafan/Burch

AYES: 7

Motion to approve the consent calendar as submitted with staff recommendation and special conditions as follows:

- 2. USE PERMIT NO. 1528 & "S" ZONE APPROVAL-AMENDMENT:** A request to develop five monument signs in excess of six feet in height and five freestanding directional signs in excess of twelve square feet in area at Cisco Systems Site 5 campus (APNs 86-01-026; 86-02-017, -018, -024, -060, -062). Applicant: Swett Equity. Project Planner: David Tilley, 586-3278. **(Approved subject to findings with (4) special conditions).**
- 4. "S" ZONE APPLICATION:** A request to construct a professional office building for oral care facilities, located at the southwest corner of Carlo and Main Streets (APN 022-24-024). Applicants: Drs. Minkin and Shabbazian. Project Planner: Marina Rush, 586-3272. **(Continue to January 26, 2000 Planning Commission Hearing).**
- 5. USE PERMIT NO. 1529:** A request to operate a commercial printing business at 1380 Piper Drive. Applicant: Pizzazz Printing. Project Planner: Marina Rush, 586-3272. **(Approval subject to findings with (3) special conditions).**
- 6. USE PERMIT NO. 1531/"S" ZONE APPROVAL-AMENDMENT:** A request to install cellular panel antennas at 1101 Cadillac Court. Applicant: Nextel Communications. Project Planner: Marina Rush, 586-3272. **(Approval subject to findings with (4) special conditions).**
- 7. FINDING OF CONFORMANCE WITH "McCARTHY RANCH" DESIGN GUIDELINES:** Northerly gateway design for "McCarthy Ranch," North McCarthy Blvd. Applicant: Joe McCarthy. Project Planner: Annelise Judd, 586-3273. **(Recommend approval to the City Council).**
- 9. S" ZONE APPLICATION TIME-EXTENSION:** Request for 18-month time-extension for 397,320-square-foot R&D office complex on 26+/- acres bounded by McCarthy Blvd., Tasman and Alder Drives (APN 86-02-037). Applicant: Peery/Arrillaga. Project Planner: Annelise Judd, 586-3273. **(Approve time extension).**

M/S: Nitafan/Chua

AYES: 7

Commissioner Williams referring to item no 6, said that he appreciates the diligence of commission and staff in achieving an esthetic style of antennas systems here in our city.

PUBLIC HEARINGS

3. Use Permit No. 122-Amendment, "S" Zone Application and EIA No. 742

Project Planner Rush presented a proposal to demolish the existing Shell gas station, canopy and fuel pumps, and rebuild and expand site usage to include twelve fueling stations (six double-sided gas pumps) with canopy, a 1,750-square-foot car wash/snack shop building, trash enclosure, two freestanding signs over six feet in height, and a request for parking reduction, located at 1780 S. Main Street.

Commissioner Montano asked if the lighting would flood onto the neighbors. Ms. Rush replied that they require through their condition that there not be any off-site glare from the service station light, however, though the light is directed down, it is a very high intensity. This is done for safety reasons and for advertising purposes.

Vice Chair Nitafan asked if the car wash would be operated by coins or tokens. Ms. Rush said that the car wash would be fully automated but she is not sure if it would be operated by coins or tokens. Mr. Nitafan said that doesn't think it is feasible for customers to park their cars at the gas station while they are at the snack bar. Ms. Rush explained that the snack shop requirements for parking based on their ordinance requires four parking stalls and the applicant is providing five parking stalls.

Commissioner Burch asked for clarification on whether they are required to comply with the current policy as it exists. Ms. Rush explained that they would be required to comply with the current policy.

Vince Padilla, A & S Engineering, 1243 Alpine Road, Ste. 109 Walnut Creek, CA 94596, stated that along the Montague Expressway property line the site landscaping has been designed to meet requirements even after the street has been widened. The project would include a 12-foot dedication of that area as well as a 10-foot utility easement that runs along perimeter of the lot. The driveway near the intersection would be closed and the canopy area would be rebuilt along with six new multi-product dispensers providing 12 fueling positions. Mr. Padilla added that they feel that the parking would be more than accurate.

Mr. Padilla said that he has a concern about condition no. 21 regarding draining condensation from the air condition units into the landscaping as this could flood those areas during a storm. Mr. Padilla said that they would like that condition removed from the project, if not then a limited dollar amount put on it.

Tom Wilson, ARC Inc., said that he would like to commend the Planner Annelise Judd and the planning staff for a well written and well prepared staff report, however, he has a few concerns relating to five of the conditions that relate to the architecture. Mr. Wilson said that the first condition of concern is condition no. 6 that relates to the building tower elevations, it does not show any of the shadows.

The next condition of concern is condition no. 7 which relates to signage, the concern is since they will not be showing cabinet signs they shouldn't have to come back to the Subcommittee. Ms. Barone explained that they have no choice since the Subcommittee is the lowest level of review that is offered.

Mr. Wilson said that the next condition of concern is no. 8, regarding the car wash elevation, they have no way to put windows on that elevation and they are opposed to false windows. They are also in disagreement with condition no. 9, which states that the roof overhangs appear truncated and proportionally small for the building, and pointed out that the design is reminiscent of the California Mission style architecture and is commonly used in Milpitas and the South Bay.

Lastly, Mr. Wilson commented that the concerns relating to the trellis posts in conditions no. 10, has already been addressed.

Commissioner Williams said that he is concerned that the trees adjacent to the building might create a visual impact to drivers and pedestrians. Mr. Padilla replied that if the Commission would like to specify size or placement of trees, they would be agreeable. Mr. Williams asked if the plan is the true representation of the size of trees, or is it going to be represented as part of the artistic rendering. Mr. Padilla responded that the landscape plan is the true representation.

Commissioner Sandhu asked if they would be using recycled water. Mr. Padilla explained that a significant amount of water is recycled.

Commissioner Chua asked if it is true that special condition no. 10 has been addressed. Ms. Rush said that based on the drawings it has been. Ms. Chua asked for staff's reply to condition nos. 6, 7, 8 & 9. Associate Planner Burkey replied that in regards to no. 6, it was staff's opinion that a more decorative treatment could be utilized for the tower. In regards to no. 8 the revised building elevation was a suggestion from staff. In regards to no. 9, the roof overhangs, it was a consensus of staff that increased roof overhangs would improve the appearance of the building.

Planning and Neighborhood Preservation Director Barone said that she would like to respond to condition no. 21, which states that "prior to building permit issuance, the plans shall show that all condensate lines will be plumbed to the landscaped area. The applicant shall work with Planning staff regarding draining the building roof to the landscaped area". Ms. Barone said that these are not uncommon conditions for use to use and staff highly recommends that the condition be left, as it is to allow them the flexibility to work with the developer.

Commissioner Chua asked for clarification on condition no. 14, which the applicant has indicated is a concern in regards to water draining onto the landscaping. Mr. Burkey explained that this is a condition that staff has been applying to all projects as part of their regular storm water and runoff control efforts as this wording allows staff more flexibility when working with the applicant

Vice Chair Nitafan referring to special condition no. 9, said that he agrees with staff's recommendation for larger roof overhangs.

Commissioner Burch pointed out that the tile and the paint do not match and asked if that could be changed to match. Mr. Wilson said that they would change the colors so they would match.

Commissioner Montano asked if there was a "Welcome to Milpitas" sign. Mr. Wilson said that there is no longer a sign.

Chair Hay opened the Public Hearing.

Dave Richerson, 1920 Yosemite Drive said that he was concerned about the trees being a visual impact, and also, the east elevation is long and has no features on it so it could be made to stand out more.

Motion to close the public hearing.

M/S: Burch/Nitafan

AYES: 7

Commissioner Williams said that he is concerned about the landscaping in regards to safety. Mr. Burkey said that the trees would be 24" box trees.

Vice Chair Nitafan said that he likes the design, and concurs with staff on conditions 6, 8 & 9. The landscaping is fine but the architectural features could be improved.

Commissioner Burch said that she likes the building the way it is.

Commissioner Montano said that she likes the architecture of the building.

Commissioner Sandhu said that he likes the project but has concerns regarding the parking.

Ms. Barone pointed out that there are six parking spaces and not five.

Commissioner Chua said that this is one of the nicest projects that she has seen and would like to keep it the way it is.

Motion to approve Use Permit No. 122-Amendment, "S" Zone Application, and EIA No. 742 subject to Findings with (27) Special Conditions with the deletion of conditions 6, 8, 9 and 10 and add the word "current" to condition no. 11.

M/S: Burch/Montano

Commissioner Chua asked if condition no. 7, regarding signage, would automatically fall to the Planning Commission Subcommittee. Ms. Barone replied that it would go to the Subcommittee but can also be used as a condition.

Vice Chair Nitafan requested that a six-month review of the parking be added to

the motion. Ms. Barone agreed that could be added after their certificate of occupancy.

AYES: 7

BREAK

Chair Hay called a 10 minutes break at 8:35 PM.

NEW BUSINESS

8. General Plan Conformance

Associate Planner Burkey presented a proposal for the designation of the Kozy Kitchen as a Cultural Resource, located at 40 N. Milpitas Blvd.

Chair Hay asked if it is correct that in 1990 there was a Milpitas Historic Sites Inventory done, followed by 1993 Historic Resources Master Plan that was incorporated into the General Plan. Mr. Burkey replied that the timing and incidents of that statement is correct, however, it doesn't mean that all the sites included in the inventory have significant historic value.

Vice Chair Nitafan said that he doesn't feel that this building is a historical building because everything has been removed from the building and it is only a shell. Mr. Burkey explained that this building has never been designated as a significant historic resource, it was included in the Historic Sites Inventory along with many other buildings that were old, some significant, some not.

Commissioner Sandhu asked what would it mean to the owner if the Kozy Kitchen was designated a Cultural Resource. Mr. Burkey replied that at this point it would mean another layer of regulation. Mr. Sandhu asked if there is any financial loss to the owner. Mr. Burkey said that there would be some delay and the potential expense if there were a need to hire a consultant.

Commissioner Montano asked for clarification as to what year this building was constructed. Mr. Burkey said that all the available evidence indicates that it was built in 1925. Ms. Montano asked what year the Fat Boy Restaurant was built. Mr. Burkey said that it was built in 1912.

Chair Hay pointed out that it may be considered an unlawful taking of property if the City designated the property as a Cultural Resource after it was sold. City Attorney Faubion replied that the ordinance states that anyone can raise the issue and then it provides a process for examining that issue. If the Planning Commission makes its determination as to General Plan consistency it also has the ability under the ordinance to comment as a separate matter on the merit.

Commissioner Montano asked if this relates to the Midtown Plan. Ms. Barone said that it is located in the Midtown area and the Midtown Subcommittee did review it.

Mike Sweat, property owner 114 S. Main Street, said that he attended the meeting at the Parks and Recreational and Cultural Resources Commission and they didn't want to designate this a Cultural Resource, but they wanted to have a commemorative plaque or display as part of any future development on this site. Therefore they agree with the Planning staff that the building does not meet the historical criteria.

Dave Richerson, 1920 Yosemite Drive, stated that he also attended the Parks and Recreation Cultural Resources Commission meeting and concurs with Mr. Sweat's statement.

Motion to recommend to City Council that designation of the Kozy Kitchen as a Cultural Resource is not in conformance with the General Plan.

M/S: Nitafan/Chua

Commissioner Montano asked if the building could be moved to a different site. Mr. Sweat said that the building would probably fall apart if it were moved.

Commissioner Chua said that her reasons for supporting the motion are:

- 1) The Midtown Specific Subcommittee made this building part of the Midtown Specific Plan.
- 2) The City of Milpitas did an extensive study that is not included in the list. 3) Based on the designation criteria they didn't pass a single item. 4) The reason that we have this policy is to be proactive and not reactive. Chair Hay said that he concurs with Ms. Chua's reason's that designation of this building as a Cultural Resource is not in conformance with the General Plan.

Commissioner Chua asked the applicant to provide the Milpitas Historical Society with extensive photographs of the Kozy Kitchen building, and also allow a memorial plaque.

Commissioner Burch said she would not be voting for this motion. Ms. Burch said that voting against the motion provides the City Council the ability to make the decision, adding that they don't have any information on the study that was done. Lastly, Ms. Burch said that she felt the Kozy Kitchen fit the criteria for a cultural resource as it was a political and social resource..

Chair Hay asked staff to clarify the City Council's flexibility on this issue. Ms. Barone explained that as long as the Planning Commission makes a recommendation, the City Council is free to act in supporting the recommendation or not supporting the recommendation based on their deliberations and their findings.

Commissioner Montano and Commissioner Sandhu stated they would be abstaining from voting on this project because they are both members of the

Milpitas Historical Society.

Commissioner Chua pointed out that the Parks and Recreation Commission did recommend preservation of this building, however, they did not feel it was worthy of preservation.

AYES: 4 (Hay, Nitafan, Chua, Williams)

NOES: 1 (Burch)

ABSTAIN: 2 (Montano, Sandhu)

1. Redevelopment Agency Annual Report & Component Unit Financial Statements for End of Fiscal Years 1998 & 1999

Planning and Neighborhood Preservation Director Barone and Finance Director Johnson gave a presentation on the Redevelopment Agency Annual Report and Component Unit Financial Statements for End of Fiscal Years 1998 and 1999.

Discussion followed between the Commission and staff regarding some of the details of the reports.

Commissioner Montano asked why other cities have a separate Redevelopment Agency and why our City Council is part of our Redevelopment Agency. Ms. Barone responded that the City of Milpitas is a majority and most cities and counties with redevelopment agencies take advantage of their existing elected officials.

Commissioner Sandhu asked if the Redevelopment Agency board member's must be elected officials. Ms. Barone explained that Redevelopment Agency board members do not have to be City Council members.

Motion to note receipt and file.

M/S: Williams/Chua

AYES: 7

11. Planning Commission Subcommittee Selection

The Planning Commission Subcommittee was selected as follows:

Subcommittee member no. 1 is Commissioner Montano

Subcommittee member no. 2 is Commissioner Chua

Alternate no. 1 is Vice Chair Nitafan

Alternate no. 2 is Chair Hay.

12. Set Meeting Date with the City of Fremont Planning Commission

Ms. Barone announced that the confirmed meeting date for the Fremont Planning

Commission to meet with the Milpitas Planning Commission, is February 16, 2000.

Motion for the Milpitas Planning Commission and the Fremont Planning Commission to meet on February 16, 2000.

M/S: Nitafan/Burch

AYES: 7

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:45 PM to the next regular meeting of January 26, 2000.

Respectfully Submitted,

VALERIE BARONE
Secretary

KAREN RAMSAY
Recording Secretary

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